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A DIGEST
OF THE
REVENUE LAWS
OF THE
STATE OF ARKANSAS

COMPILED IN AUDITOR'S OFFICE

— BY —

AVERY E. MOORE

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LITTLE ROCK, ARKANSAS.
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REVENUE LAWS

OF THE

STATE OF ARKANSAS

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DEFINITION OF TERMS AND PHRASES.

Section 1. The term "real property and lands," wherever used in this act, shall be held to mean and include not only the land itself, whether laid out in town lots or otherwise, with all things therein contained, but also all buildings, structures and improvements, and other fixtures of whatever kind thereon, and all rights and privileges belonging or in any wise appertaining thereto.

The term "investment in bonds," wherever used in this act, shall be held to mean and include all moneys invested in bonds of whatever kind, or certificates of indebtedness commonly called scrip, whether issued by incorporated or unincorporated companies, towns, cities, townships, counties, states or other corporations, held by persons residing in this state, either by

themselves or by others for them, whether for themselves or as guardians, trustees or agents.

The term “investment in stocks,” wherever used in this act, shall be held to mean and include all moneys invested in public stocks of this or any other state, or in any association, corporation, joint stock company or otherwise, the stock or capital of which is or may be divided into shares, which are transferable by each owner without the consent of the other partners or stockholders, for the taxation of which no special provision is made by this act, held by persons residing in this state, either for themselves or as guardians, trustees or agents, or by others for them.

The term “oath,” wherever used in this act, shall be held to mean oath or affirmation. Every word in this act importing the masculine gender shall extend and be applied to females as well as males, and the word “person,” as used in this act, shall be held to mean and include firm, company and corporation.

The term “personal property,” wherever used in this act, shall be held to mean and include:

First. Every tangible thing being the subject of ownership, whether animate or inanimate, other than money, and not forming a part of any parcel of real property, as hereinbefore defined.

Second. The capital stock, undivided profits, and all other means not forming part of the capital stock of every company, whether incorporated or unincorporated, and every share, portion or interest in such stock, profits or means, by whatsoever name the same may be designated, inclusive of every share or portion, right or interest, either legal or equitable, in and to every ship, vessel or boat of whatsoever name and description, used, or designed to be used, exclusively or partially, in navigating any of the waters within or bordering on this state, whether such ship, vessel or boat shall be within the jurisdiction of this state or elsewhere, and whether the same shall have been enrolled, registered or licensed at any collector’s office, or within any collector’s district of this state or not.

That all circulating notes of national banking associations, and United States legal tender notes, and all other notes and certificates of the United States payable on demand and circulating, or intended to circulate, as currency, and gold, silver or other coin, held or owned by

any citizen or resident of the State of Arkansas, shall be and is hereby made taxable for all state, county, school and municipal purposes, and each person in the state required by law to list property shall make out and deliver to the assessor, verified by his oath or affirmation, a list of all such moneys and certificates and circulating notes described in this section, in his possession or under his control on the first day of June of each year, and which he is hereby required to list for taxation, either as holder or owner thereof, or as guardian, parent, husband, executor, administrator, receiver, accounting officer, partner, agent or factor. *Act February 12, 1895.*

All citizens of this state shall, when they give to the assessor a list of their personal property, moneys and credits, state under oath whether they have any such deposits or balances on account or otherwise, and the amount of such deposits, balance or otherwise on account.

The term "credits," wherever used in this act shall be held to mean the excess of the sum of all legal claims and demands, whether for money or other valuable things, or for labor or service due, or to become due, to the person liable to pay taxes thereon, including deposits in banks or with persons in or out of this state, when added together (estimating every such claim or demand at its true value in money), over and above the sum of legal *bona fide* debts owing by such person. In making up the sum of such debts owing, there shall be taken into account no obligation to any mutual insurance company; nor any unpaid subscription to the capital stock of any joint stock company; nor any subscription for any religious, scientific, literary or charitable purpose; nor any acknowledgment of any indebtedness, unless founded on some consideration actually received, and believed at the time of making such acknowledgment to be a full consideration therefor; nor any acknowledgment of debt made for the purpose of diminishing the amount of credits to be listed for taxation; nor any greater amount or portion of any liability as surety than the person required to make the statement of such credits believes that such surety is in equity bound and will be compelled to pay or contribute.

Pensions receivable from the United States, or from any state (salaries or payments excepted), shall not be held to be annuities within the meaning of this act.

PROPERTY AND PRIVILEGES SUBJECT TO TAXATION.

Sec. 2. All property, whether real or personal, in this state; all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of persons residing therein; the property of corporations now existing or hereafter created, and property of all banks or banking companies now existing or hereafter created, and of all bankers and brokers, shall be subject to taxation; and such property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, or the value thereof, shall be entered on the list of taxable property for that purpose (a).

Sec. 3. It shall be the duty of the county assessor in each county whenever any person shall commence any new business within the limits of the county after the regular time for the assessment of taxes shall have expired and the assessment books shall have been filed with the county clerk to assess the value of such business and merchandise, and he shall make an extra assessment thereof and file the same with the clerk, who shall thereupon place the same upon the tax books and extend the taxes thereon, and the collector shall proceed to collect said tax the same as other taxes. *Provided*, that no person shall be compelled to pay taxes on the same property twice in any one year. *Act March 4, 1895.*

Sec. 4. All tracts of land set apart for school or other purposes, and donated to the state by the congress of the United States for a specific purpose, and sold under the authority of the laws of this state to any person, shall be subject to taxation, as other land in this state, immediately after sale; but such lands shall not be sold for taxes until the purchase money therefor shall be fully paid (b), but shall be returned delinquent, as other lands, and the personal property of the purchaser shall be subject to sale to pay the taxes thereon. *Provided*, until such payment of taxes, or the collection thereof from the personal property, such lands shall be continued on the tax-books, and the taxes of each year charged thereon and added to the

(a) The right to impose taxes upon citizens and property for the support of the state government, may be restricted by the constitution, but needs no clause to confer it. *Ouachita Co. v. Rumph*, 43—525.

Notes, bills of exchange, stock and securities of all kinds are property, and subject to taxation. *Ib.*

A note given for land, and the land itself are both subject to taxation; the note as property of the holder and the land as property of the purchaser. *Ib.*

(b) See Sec. 4674. Land purchased from the United States is subject to taxes as soon as entry is made and the purchase price paid, although no patent

tax and penalty due when the same became delinquent until payment be made or the lands resold by the proper officer or authority, pursuant to the laws in force for the sale of such lands. *Act March 31, 1883, secs. 1-3.*

When the mineral rights in any land shall, by conveyance or otherwise, be held by one or more persons, and the fee simple in the land by one or more other persons, it shall be the duty of the assessor when advised of the fact, either by personal notice, or by recording of the deeds in the office of the recorder of the county, to assess the mineral right in said lands separate from the general property therein. And in such case, a sale of the mineral rights for non-payment of taxes shall not affect the title to the land itself, nor shall a sale of the land for non-payment of taxes affect the title to the mineral rights. *Act March 1, 1897.*

PRIVILEGES SUBJECT TO TAXATION FOR STATE PURPOSES.

Sec. 5. Whoever shall be engaged in the business of selling goods, wares or merchandise of any description other than articles grown, produced or manufactured by such seller himself, or for those for whom he is employed, and who shall take in exchange therefor eggs, chickens, hides, peltry, furs, fruit, vegetables or other articles usually grown, produced or manufactured on farms, shall be known and styled "Farm and Produce Peddlers," and shall be entitled to carry on such business in this state without any tax or license therefor, and may give and receive money in carrying on said business when necessary or when change can not otherwise be made. *Act March 27, 1893.*

Sec. 6. Whoever shall engage in the business of selling goods, wares, or merchandise of any description, other than articles grown, produced or manufactured by the seller himself, or by those in his employ, by going from house to house, or place to place, either by land or water, to sell the same, is declared to be a peddler or hawker. *Act March 13, 1885.*

is issued. *Diver v. Friedham*, 43—203; *Smith v. Hollis*, 46—17; *Burcham v. Terry*, 55—398.

Taxes are a lien on personal property and follow it into whatsoever hands it goes. *Bridewell v. Morton*, 46—73.

Illegal taxes may be enjoined when such injunction will prevent a multiplicity of suits. *Little Rock v. Prather*, 46—471.

The collection of taxes partly illegal will not be enjoined without an offer to pay the legal part. *Bridewell v. Morton*, 46—73.

A state court can not enjoin a tax levied pursuant to a mandamus from a federal court. *Gaines v. Springer*, 46—502.

Taxes illegally collected may be recovered back. *Magnolia v. Sharman*, 46—358.

Sec. 7. There shall be levied and collected as a state tax the sum of twenty-five dollars on each and every hawker or peddler, whether by land or water (c), for the privilege of hawking and peddling goods, wares and merchandise throughout this state for the term of six months and less.

Sec. 8. It shall be lawful for any indigent or disabled ex-Confederate or United States soldier or sailor, and all blind persons residing in this state, to engage in what is commonly known as hawking and peddling, to give illustrated lectures and magic lantern exhibitions and such other like entertainments without paying either state, county, city or town license or tax for the privilege of so doing; *provided*, that the provisions of this act shall not apply to any ex-Confederate or United States soldier or sailor drawing a pension exceeding eight dollars per month.

Before any ex-Confederate or United States soldier or sailor shall be entitled to any of the privileges set out in this act, he shall make an affidavit in writing before some officer authorized by law to administer oaths, that he is a resident of this state, and that he was properly mustered in and served as a soldier or sailor in the army or navy of the Confederacy or United States. A certificate of the county judge of the county in which any ex-Confederate or United States soldier or sailor resides, setting forth that said soldier or sailor has complied with the provisions of this act, and that he is entitled to the benefits and privileges set out in this act, shall be sufficient proof of the indigency or disability and of the service of said soldier or sailor in the Confederate or United States army or navy; *provided*, that nothing in this act shall be so construed as to authorize the peddling of any ardent spirits or intoxicating liquors, upon which a license is now imposed by law; *provided, further*, that the privileges hereunto granted shall not be assignable or transferable to or used by any other person other than the original person or persons to whom a certificate has been issued as provided by this act.

Sec. 9. There shall be levied and collected as a state tax the sum of one hundred dollars upon each and every clock peddler, each and every agent for the sale of lightning rods and stove-range agents, doing business in this state for the term of one year or less. *Act March 31, 1883, sec. 4.*

Sec. 10. There shall be levied and collected as a state tax, upon each

(c) See Sec. 6740.

and every sewing machine company, or general agent for the sale of sewing machines, doing business in this state, for the term of one year or less, the sum of two hundred dollars, to be paid into the state treasury. *Provided*, any sewing machine company or general sewing machine agent, who shall have paid said tax, may send his or their employes, or such agents, into any other county or counties than that in which his or their principal business may be carried on, upon payment of a county tax of five dollars for each employe or sub-agent in each of such additional counties wherein such employe or sub-agent may be engaged in carrying on any part of his or their said business, for the term of one year or less. *Provided further*, it shall be unlawful for the clerk of any county to issue any license to any such employe or sub-agent, until he shall be satisfied from the receipt of the treasurer of state that the said sewing machine company or general sewing machine agent had first paid the said state tax of two hundred dollars into the state treasury as aforesaid (d). *Act April 2, 1885, sec. 1.*

Sec. 11. Every person wishing to engage in the business of hawking or peddling, peddling clocks, or as agents for the sale of sewing machines, lightning rods, stove ranges, or wishing to engage in the sale of spirituous, vinous or malt liquors in this state, shall first pay for and take out a license for the privilege of engaging in any business specified by law (e).

Sec. 12. Any person who shall engage in the business of hawking or peddling, or in peddling clocks (or as agent for the sale of sewing machines, stove ranges or lightning rods), or shall engage in the sale of spirituous, vinous or malt liquors in this state, without having paid the tax as provided in this act for said privilege, shall be guilty of a misdemeanor, and, upon conviction, shall be fined in double the amount of license he would be by the provisions of this act chargeable with. *Act March 31, 1883, sec. 4.*

Sec. 13. Any person who shall obtain annual license, as provided in section 4851, *Sandels & Hill's Digest*, shall pay to the collector of the county wherein such license is procured, the sum of five hundred dollars as a county tax, and the sum of three hundred dollars as a state tax, for the general revenue fund, and two per cent, upon the amount paid as collector's fees (d), and two dollars for each license for clerk's fees, and shall pay the

(d) See *Baker v. State*, 44—134.

(e) See *State v. Washmood*, 26 S. W. Rep., 13; *Blackwell v. State*, 45—90. See for liquor laws, *chap. CI.*

See Sec. 6638. The authority of the legislature to regulate the exercise of

same amount of tax and fees for a license for any period less than one year, but no license shall continue in force longer than the thirty-first day of December, succeeding the issuance of the same. *Act April 8, 1891.*

There shall be levied and collected, as a state tax for state purposes, the sum of fifty dollars, upon each and every wholesale dealer in malt liquors, for the term of one year or less.

There shall be levied and collected as a county tax for county purposes, the sum of one hundred dollars, upon each and every wholesale dealer in malt liquors, for the term of one year or less.

Nothing in this act shall be construed to apply to wholesale dealers who have or may procure retail license as provided by law. *Act March 31, 1887.*

PRIVILEGES SUBJECT TO TAXATION FOR COUNTY PURPOSES.

Sec. 14. In addition to the revenue arising from ferry, dramshops and drinking saloon license, which is appropriated for county purposes, there shall be levied and collected a county tax on the following articles:

A tax of three dollars on each criminal conviction in courts of record (f).

A tax of three dollars on each civil suit in courts of record, where a verdict is rendered by a jury.

A tax of fifty cents upon each writ of summons and writ of execution issued out of any of the courts of record in this state; and,

A tax of fifty cents upon the certificate of record of each instrument of writing recorded in any recorder's office of this state. *Provided*, mortgages shall not be taxed more than fifteen cents. And a tax of fifty cents on each marriage license issued. Courts of justice of the peace are not courts of record within the meaning of this section (g). *Act April 8, 1889.*

Sec. 15. Any person who is not in any manner connected with any sewing machine company as partner, shareholder or agent, and who is not under contract of any kind with such company, and who simply peddles

privileges or the following of pursuits and occupations does not fall properly within its taxing powers, but within its police powers. So persons desiring to exercise privileges or engage in callings really useful to society may be required to obtain license and pay a reasonable compensation therefor such as the keepers of ferries, draymen, hackmen, and even persons who furnish meat or bread to communities. *Straub & Lohman v. Gordon*, 27—625; *Cooley's Const. Lim.*, 496—7.

(f) See *Murphy v. State*, 38—514.

(g) See *Lee County v. Abrahams*, 34—166.

sewing machines in his own right, may peddle the same by paying twenty-five dollars county license (h). *Act April 2, 1885, sec. 2.*

Sec. 16. There shall be collected as a county tax:

First. The sum of twenty-five dollars on each and every hawker or peddler, by land or water (i) for the privilege of hawking and peddling goods, wares and merchandise in any county in this state for the term of six months or less.

Second. The sum of one hundred dollars on each and every circus or menagerie for each day's exhibition given in any county in this state, and fifty dollars for each side-show connected therewith. *Act March 31, 1883, sec. 6.*

Third. That the county court of each county shall fix the amount of county tax for each and every public exhibition given by any person or persons in any county in this state, any part of the proceeds of which is for his or her personal profit, and such licenses may be fixed for each exhibition, or monthly, quarterly, or annually, in the discretion of the county court.

Provided, that this section shall not apply to theaters and opera houses in cities of the first and second class and incorporated towns where no liquor is sold by the management or on the premises.

Provided, further, that in cities of twenty thousand (20,000) inhabitants and over the license for theaters and opera houses where no liquor is sold on the premises shall be one hundred dollars (\$100.00) for county purposes.

The exceptions in this act shall not be construed to apply to what is generally known as theaters comique or variety theaters. *Act May 23, 1901.*

Fourth. The sum of ten dollars upon each and every auctioneer who follows the business for profit, for the privilege of selling any lands, goods, wares and merchandise at public outcry in any county in this state for the term of six months or less (j). *Act March 31, 1883, sec. 6.*

That hereafter before any person, either as owner, manufacturer or agent, shall travel over or through any county and peddle or sell any lighting rod, steel stove range, clock, pump, buggy, carriage and vehicles or

(h) See *Baker v. State*, 44—134.

(i) See Secs. 6411 and 6738.

(j) Auctioneers are also required to pay a duty on sale made by them. See Sec. 451.

either of said articles he shall procure a license as hereinafter provided from the county clerk of such county, authorizing such person to conduct such business. *Provided*, nothing in this act shall apply to any resident merchant in said county.

That any person, before engaging in the sale of such articles, as mentioned above shall pay into the county treasury of such county, the sum of two hundred (\$200.00) dollars, taking the receipt of the treasurer therefor, which receipt shall state for what purpose the money was paid. The county clerk of such county, upon the presentation of such receipt shall take up the same and issue to such person a certificate or license authorizing such person to travel over such county and sell such articles or article for a period of one year from the first day of January preceding the date of such license.

Any person who shall travel over such county and sell or offer to sell any of the above enumerated articles, without first procuring the license herein provided for shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than two hundred (\$200.00) dollars, nor more than five hundred (\$500.00) dollars. *Act April 29, 1901.*

COLLECTION OF LICENSE TAX.

Sec. 17. It shall be the duty of the clerk of the county court to issue blank licenses for the privileges and purposes mentioned in this act (ppp), and deliver them to the collector, and charge him with the amount thereof, specifying in each case the number and amount of each kind of license (qqq).

Sec. 18. In case where, by the provisions of this act, the privilege is to be for twelve months, or less, such license shall expire on the thirtieth day of April next after the date of the delivery thereof by the collector to the party applying for the same, and in case where the privilege is to be for six months, or less, such license shall expire on the thirtieth day of June and the thirty-first day of December, respectively, next after the date thereof (*).

Sec. 19. Each blank license shall be signed by the clerk, and authenti-

(ppp) See Secs. 6406 and 6412.

(qqq) See *Crawford v. Carson*, 35—565.

(*) But see Sec. 6641, and as to liquor license, see *chapter CI*.

cated by the seal of the county court, and the collector in granting every license shall fill up and countersign one of the blank licenses delivered to him by the clerk of the county court, and no license unless thus signed, authenticated and countersigned shall authorize or avail any person to act under the same. The collector shall be entitled to five per cent. commissions on each license for amount collected, to be paid by the person receiving the license. *Act March 31, 1883, sec. 156.*

Sec. 20. The privilege taxes paid as herein provided to the collector shall be reported by him quarterly and paid into the county and state treasuries within twenty days after the granting of the license for which said privilege tax is paid, and each collector shall at the end of each quarter make to the clerk of the county a detailed report of the licenses issued by him during the quarter aforesaid, showing the number and date of the license, the name of the license, the privilege for which it was granted and the amount collected for it. And if any collector shall fail to make such report he shall be notified by the clerk of the county court and required to make such report, and for failure to perform any of the duties required of him under this act shall be guilty of a misdemeanor and on conviction thereof shall be fined in any sum not less than three hundred dollars nor more than one thousand dollars. *Act January 25, 1893, sec. 1.*

Sec. 21. Immediately upon the collector making such quarterly report, the clerk of the county court shall certify to the auditor the amount of taxes due the state collected, and the auditor shall charge the same to the collector.

Sec. 22. It shall be the duty of the sheriff, or any constable of the county, to ask, demand and receive from the person or persons who may attempt in any county to make and exhibit any of the objects or performances upon which a specified tax is levied the tax for such exhibition, and, upon demand, if such person or persons shall neglect or refuse to pay the tax, he or they shall be deemed disturbers of the public peace, and it shall be the duty of the officers making such demand to command him or them to forthwith desist, and, to compel obedience to such demand, such officer may call to his aid any number of citizens.

Sec. 23. It shall be the duty of the collector to call upon any person he may know, or have reason to believe, to be pursuing within his county

any business upon which, by the provisions of this chapter, a specific tax is levied, without having a license therefor, as required by law, to produce such license, and if such person fail or refuse to produce to such collector such license, then it shall be the duty of said collector to immediately give information against such person to some justice of the peace of said county; but if the circuit court be in session, then it shall be the duty of the collector to give the information to the grand jury of said county.

Sec. 24. The license herein provided for shall be a personal privilege, enjoyable only by the person to whom it is issued, and shall not be transferable.

Sec. 25. The account of the clerk of the county court against the collector for the license herein provided for shall be so kept as to show by denominations and numbers exactly what licenses issued to him by said clerk are in his hands at any time, and upon the final settlement of each collector the clerk of the county court shall require the return by such collector of all such licenses issued to such collector and not issued by him, and such collector shall receive credit for all such licenses as he shall return to such clerk without having issued them, and for all such licenses as such collector shall not thus account for he shall be held liable upon his official bond as collector for so much money as the amount of such license, and such clerk shall certify such settlement to the auditor.

PROPERTY EXEMPT FROM TAXATION.

Sec. 26. All property described in this section, to the extent herein limited, shall be exempt from taxation:

First. All public school-houses (k) and houses used exclusively for public worship, and the grounds attached to such buildings necessary for the proper occupancy, use and enjoyment of the same, and not leased or otherwise used with a view to profit.

Second. All public colleges, academies, all buildings connected with the same, and all houses connected with public institutions of learning not used with a view to profit. This provision shall not extend to leasehold

(k) See art. XVI, sec. 5, *Const.*; *Phillips County v. Sister Estelle*, 42—536; *Brodie v. Fitzgerald*, 57—445; *Board of Improvement v. School District*, 56—354; *Ex parte Gaines*, 56—227.

estate, or to real property held under the authority of any college or university of learning in this state.

Third. All lands used exclusively as graveyards, or grounds for burying the dead, except such as are held by any person, or persons, company or corporation, with a view to profit, or for the purpose of speculation in the sale thereof.

Fourth. All property, whether real or personal, belonging exclusively to this state or the United States.

Fifth. All buildings belonging to counties used for holding courts, for jails or for county offices, with the grounds, not exceeding in any county ten acres, on which said buildings are erected.

Sixth. All lands, houses and other buildings belonging to any county, city or town used exclusively for the accommodation of the poor.

Seventh. All buildings belonging to institutions of purely public charity, together with the land actually occupied by such institutions, not leased or otherwise used with a view to profit, and all moneys and credits appropriated solely to sustaining and belonging exclusively to such institutions (*).

Eighth. All fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safe-keeping thereof, and for the meeting of fire companies, whether belonging to any town or to any fire company organized therein.

Ninth. All market-houses, public squares, other public grounds, town and city houses or halls, owned and used exclusively for public purposes, and all works, machinery and fixtures belonging to any town, and used exclusively for conveying water to said town. *Act March 31, 1883, sec. 7.*

RATE OF TAXATION—FOR STATE PURPOSES.

Sec. 27. For the purpose of raising revenue to support the state government, the charitable institutions of the state, and the common schools, a tax shall be levied on the taxable property of this state as follows:

For defraying the general expenses of the state government including the charitable institutions of the state, and supplying deficiencies, there shall be levied for each fiscal year beginning on the first Monday in Feb-

(*) See *Brodie v. Fitzgerald*, 57—445.

ruary, eighteen hundred and ninety-one, two and one fourth mills on the dollar; for the support of public schools, two mills on the dollar. There shall also be levied annually one dollar per capita on every male inhabitant of the state, over twenty-one years of age for common school purposes (*). *Act April 8, 1891.*

FOR COUNTY AND SCHOOL PURPOSES.

Sec. 28. It shall be unlawful for the county court to levy on the taxable property of the county in any one year a greater rate per centum than is in this section authorized (l), to-wit: For all county purposes, not exceeding five mills on the dollar, and for paying indebtedness existing at the time of the adoption of the present constitution not exceeding five mills on the dollar (m); for the support and maintenance of public schools in any school district of a county, and to pay existing indebtedness of any such district, such rate, not exceeding five mills on the dollar, as may be determined by vote of the qualified electors of such school district (n). *Act March 31, 1883, sec. 8.*

Sec. 29. The county court of each county, composed of the judge and a majority of the justices of the peace of each county, shall meet annually, on the first Monday in October for the purpose of levying the county taxes or making appropriations for the expenses of the county (o). *Act March 28, 1887, sec. 1.*

Sec. 30. Said court shall determine the amount to be raised for ordinary county purposes; for public buildings; for support of the poor; for

(*) Also an annual tax of three-fourths of one mill as a pension fund. *Act March 12, 1901.*

An annual tax of one-half of one mill as state capitol fund. *Act March 12, 1901.*

An annual tax of one-fourth of one mill as a sinking fund tax. *Act May 8, 1899.*

(l) As to effect of excessive levy, see *Worthen v. Badgett*, 32—496; *Rogers v. Kerr*, 42—100; *Goodrum v. Ayers*, 56—93.

(m) See *art. XVI, sec. 9, Const.*; *Graham v. Parham*, 32—676; *Cope v. Collins*, 37—649; *Brodie v. McCabe*, 33—690. Taxes for county purposes must be uniform. *Hutchinson v. Ozark Land Co.*, 57—554.

(n) See *Rogers v. Kerr*, 42—100; *Hodgkin v. Fry*, 33—716; *Staley v. Leomans*, 53—428.

(o) The taxation for county purposes must be uniform throughout the county; the levying court can not provide for a dual system. *Hutchinson v. Ozark Land Co.*, 57—554.

Taxes must be appropriated to the purpose for which collected. *Lee Co. v. Phillips Co.*, 46—156.

See *Martin v. McDiarmid*, 55—213.

bridges; for roads, and for interest and principal on the county debt; and shall set forth upon the record of proceedings especially the amount to be raised for each of the above defined purposes.

Sec. 31. The clerk of the county court shall carefully ascertain the amount collected for each purpose under said levy; and it shall not be lawful to use any specific fund for any other purpose than the one for which the same was specifically levied, until the purpose for which such tax was specifically levied shall have been accomplished. *Act March 31, 1883, sec. 9.*

Sec. 32. The taxes that may be levied by authority of any law in any township or school district shall be made and certified by the proper officer or person to the clerk of the county court before the first Monday in October in each year (p). *Act March 28, 1887, sec. 2.*

FOR CITIES AND TOWNS.

Sec. 33. The amount of taxes levied in any one year by the constituted authorities of any city or town shall not exceed the amount specified in this section, viz.: For all city or town purposes, five mills on the dollar; for paying indebtedness existing at the time of the adoption of the present constitution of the state, not more than five mills on the dollar (q). *Provided*, the above limitations shall not be construed to prohibit assessments on property adjacent to local improvements made in any city or town for the purpose of paying the costs thereof and damages occasioned thereby (r).

Sec. 34. All levies of taxes in cities and towns shall be based upon the appraisement of the county assessor, as equalized for the levy of state and county taxes, and placed upon the tax-book by the clerk of the county court, and the same shall be collected in the same manner and by the same person that the county taxes are collected.

BY WHOM AND HOW OBJECTIONS MAY BE MADE TO LEVY OF TAXES.

Sec. 35. Any person having real or personal property assessed for taxation may appear in person, or by attorney, before the county court at the time of the levy of taxes by it, or at the succeeding term thereafter, and,

(p) See *Staley v. Leomans*, 53—428.

(q) See *art. XII, sec. 4, Const., and note.*

(r) See *chap. CXII, subdivision VI.*

by petition or remonstrance, object to the levy of any specific tax for illegality, and may, by sworn petition, set forth and show any facts upon which such illegality rests. If the same be based upon facts, it shall be the duty of the court to determine both the law and the facts presented, and, for that purpose, shall hear any testimony offered; and if the court should rule against the objection so presented, the party so objecting to such levy may appeal from such ruling to the circuit court of the county, and upon giving bond, within ten days, with good and sufficient security, in double the amount of specific tax levied upon the property of the party objecting, subject to the approval of the court, conditioned for the payment of such tax should it be decided to have been lawfully levied, the same shall operate as a *supersedeas* of the collection of the same. *Provided*, it shall not operate to prevent the same being placed upon the tax-book. Said bond shall be given to the State of Arkansas, and, in the event such levy shall finally be declared illegal, such judgment shall operate as an acquittal to the collector and his securities for the non-collection of the tax. If the tax be finally declared legal, the collector shall immediately proceed to collect the same as in other cases, or by action on the appeal bond. *And, provided, further*, any taxpayer feeling himself aggrieved by any such levy may, at any time before the returning of delinquent taxes by the collector for that year, appeal as hereinbefore provided.

Sec. 36. Any person interested in the levy of such tax may resist such petition to prevent a levy, either before the county court or in the circuit court on appeal. In all cases where an appeal is taken, the clerk of the county court shall enter on the tax-books, opposite the name of the party or tract or lot of land, the *supersedeas* of such specific tax.

Sec. 37. The county court shall employ counsel to attend before it at the hearing, and should the same be appealed to the circuit court, the prosecuting attorney, and, if to the supreme court, the attorney-general, shall appear in the interest and behalf of the levy of the tax. *Provided*, the real or personal property upon which such illegal specific tax is alleged to have been levied shall not be withheld from sale on account of any taxes for any purpose due, or to become due, upon the same, and which has not been paid as provided by law, and against the collection of which no petition has been filed.

PROPERTY—WHEN, BY WHOM AND HOW LISTED.

Sec. 38. Every person of full age and sound mind shall list the real property of which he is the owner, situated in the county in which he resides, the personal property of which he is the owner, and all money in his possession; all circulating notes of national banking associations, and United States legal tender notes, and all other notes and certificates of the United States payable on demand and circulating, or intended to circulate, as currency, and all gold, silver or other coin in his possession or under his control; and he shall list all moneys invested, loaned or otherwise controlled by him, either for himself or as agent, attorney or on account of any other person or persons, companies or corporations whatsoever, and all moneys deposited, subject to his order, check or draft, and credits due from or owing by any person or persons, body corporate or politic, whether in or out of said county or state. *Act February 12, 1895.*

Sec. 39. If any person shall have converted moneys, credits or other personal property in the year preceding the first Monday in June of the year in which he is required to assess his property into bonds or other securities of the United States or this state not taxed, and shall hold or control such bonds or securities when he is required to list his property, he shall list the monthly average value of said moneys, credits or other property held or controlled by him. *Provided*, any indebtedness of said person, or persons represented by him, created by investment in said bonds or other securities, shall not be deducted from the amount of credits in making up his list for taxation. *Act March 28, 1887, sec. 3.*

Sec. 40. No person shall be required to list a greater portion of any credits than he believes will be acquired or can be collected, nor any greater portion of any obligation given to secure the payment of rent than the amount of rent that shall have accrued on the lease, and shall remain due and unpaid at the time of listing; and no person shall be required to include in his statement, as a part of the personal property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise which is required to list, any share or portion of the capital stock or property of any company or corporation which is required to list or return its capital and property for taxation in this state.

Sec. 41. The property of every ward shall be listed by his guardian; of every minor, idiot or lunatic, having no other guardian, by his father, if living; if not, by his mother, if living, and, if neither father nor mother be living, by the person having such property in charge; of every wife, by her husband, if of sound mind; if not, by herself, if she be of sound mind; of every person for whose benefit property is held in trust, by the trustee; of every estate of a deceased person, by the executor or administrator; of corporations whose assets are in the hands of receivers, by the receiver; of every company, firm, body politic or corporate, by the president or principal accounting officer, partner or agent thereof.

Sec. 42. Every person required to list property on behalf of others shall list it in the same township or school district in which he would be required by law to list if such property was his own; but he shall list it separately from his own, specifying in each case the name of the person, estate, company or corporation to whom it belongs, and all real property and merchants' and manufacturers' stock, and all the articles mentioned in section 48; and all personal property, farms and real property not in towns shall be returned for taxation and taxed in the township, city or town or school district in which it is situated (all shares of stock in any national bank located in this state, whether held and owned by residents or non-residents of this state, shall be listed for taxation and taxed in the city, town, township or school district in which the bank is located), and all other personal property, moneys, credits or effects shall be entered for taxation in the township, school district, city or town in which the person to be charged with the taxes thereon resided at the time of listing the same by the assessor, if the person resides in the county in which such property, moneys and effects were listed; if not, then such property, moneys and effects shall be entered for taxation and taxed in the town, township or school district where it was situate when listed.

Sec. 43. Property held under a lease for a term exceeding ten years belonging to the state, or to any religious, scientific or benevolent society or institution, whether incorporated or unincorporated, and school, seminary, saline or other lands, shall be considered, for all purposes of taxation, as the personal property of the person holding the same, and shall be listed as such by such person or his agent as in other cases. *Act March 31, 1883, secs. 15-18.*

Sec. 44. Each person required to list property shall make out and deliver to the assessor a statement, verified by his oath or affirmation, of all personal property, all circulating notes of national banking associations, and United States legal tender notes, and all other notes and certificates of the United States payable on demand and circulating, or intended to circulate, as currency, and all gold, silver or other coin in his possession or under his control, moneys, credits, investments in bonds, stock, joint stock companies or otherwise in his possession or under his control on the first Monday in June of each year, and which he is required to list for taxation, either as a holder or owner thereof, or as a guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent or factor. Said oath shall be in the following form:

“I, do solemnly swear (or affirm) that the list of property, with its value as now rendered by me, is a just and true account of all the property I am required by law to render as subject to taxation in my own name or right, or that of any other person for whom I ought to list taxable property; that I have estimated and put down the value of such property, not at what it might sell for at forced sale, but at what would be its fair market value, so help me God.” *Act March 28, 1887, sec. 4.*

Sec. 45. If any such taxpayer shall wilfully neglect or refuse to deliver such list on oath to the assessor, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not to exceed one hundred dollars, and be confined in the county jail for a period not to exceed three months, or either.

Sec. 46. The assessor shall furnish to the proper prosecuting attorney, the names of all persons so wilfully refusing to give in such sworn list of their property, and said prosecuting attorney shall present the same to the grand jury.

Sec. 47. The assessor shall not take a list of taxable property from any person without administering to such person the oath in section 44 provided; and any assessor who shall violate this provision shall be guilty of a nonfeasance in office, and, upon conviction thereof, shall be fined in any sum not less than ten nor more than fifty dollars; and each failure so to do

shall constitute a separate offense. *Provided*, such oath may be made before any officer authorized to administer oaths. *Act March 31, 1883, sec. 19.*

Sec. 48. Such statement shall truly and distinctly set forth :

First. The number of horses and value thereof.

Second. The number of neat cattle and value thereof.

Third. The number of mules and asses and value thereof.

Fourth. The number of sheep and value thereof.

Fifth. The number of hogs and value thereof.

Sixth. Every carriage or wagon and value thereof.

Seventh. Every gold and silver watch, or watches of any other metal, diamonds and jewelry of every kind and value thereof.

Eighth. Every piano-forte and value thereof.

Ninth. The value of goods and merchandise which such person is required to list as merchants.

Tenth. The value of property which such person is required to list as a banker, broker or stock jobber.

Eleventh. The value of the materials and manufactured articles which such person is required to list as a manufacturer.

Twelfth. The value of moneys and credits required to be listed, including all balances on book accounts in or out of this state.

Thirteenth. The value of money invested in bonds, stock, joint stock companies or otherwise which such person is required to list.

Fourteenth. The value of moneys, credits or other personal property converted into bonds or other securities of the United States or of this state not taxed, in the year preceding the first Monday in June, which bonds or securities were on said first Monday in June in the possession or under the control of the person making such conversion.

Fifteenth. The total value of all other articles of personal property which such person by this act is required to list. *Act March 28, 1887, sec. 5.*

Sec. 49. If there be no articles of personal property, moneys or credits, investments in bonds, stock, joint stock companies or otherwise which such person would be required by this act to list on his own account, or on account of others, he may set forth such facts to the assessor, who shall require the oath or affirmation of such person of the truth of the same ; said oath shall be in the following form :

I, ..., do solemnly swear that I was not on the first Monday in June last, possessed of personal property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise of any character or description, and that I have not under my charge, control or management any personal property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise of any character or description. And that I have not under my charge, control or management any personal property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise belonging to any other person, that was subject to taxation on the first Monday in June last, that have not been listed and appraised for taxation, either in or out of this state, and that I have not invested in non-taxable securities for myself or others.

Sworn and subscribed to before me this day of, 18..

.....Assessor.

Act March 28, 1887, sec. 6.

Sec. 50. The assessment of all personal property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, and the valuation of all lands, lots and new structures which have not been previously valued and placed upon the tax books, shall be made between the first Monday in June and the thirtieth day of August of each year. *Act March 28, 1887, sec. 7.*

Sec. 51. Personal property of every description and credits shall be assessed in the name of the person who was the owner on the first Monday in June in the year in which the assessment was made. *Act. March 28, 1887, sec. 8.*

Sec. 52. All lands and town lots sold for the payment of taxes shall be thereafter assessed in the name of the purchaser. *Act March 31, 1883, sec. 24.*

Sec. 53. It is made the duty of every person seized of or holding lands, as mentioned in this chapter, to list the same for taxation with the assessor, as prescribed in section 50, on or before the first Monday in October, after the same shall be subject to taxation; and, in case of neglecting to list the same as aforesaid, the clerk of the county court shall, when listed, charge upon each tract so neglected to be listed the taxes for each year the same shall have been omitted after becoming liable for taxation

together with ten per centum penalty on each year's taxes, in addition to the taxes of the current year. *Act March 28, 1887, sec. 9.*

MERCHANDISE.

Sec. 54. Any person owning or having in his possession, or under his control, within this state, with authority to sell the same, any personal property purchased with a view to its being sold at a profit, or which has been consigned to him from any place out of this state, to be sold within the same, shall be held to be a merchant for the purpose of this act. Such property shall be listed for taxation, and in estimating the value thereof the merchant shall take the average value of such property in his possession or under his control during the year immediately preceding the first Monday in June of the year in which the assessment is made; if he has not been engaged in the business for one year, then he shall take the average valuation during such time as he shall have been so engaged, and, if he be commencing, he shall take the value of the property at the time of assessment. *Act March 28, 1887, sec. 10.*

Sec. 55. Each merchant, in giving in a list of value of personal property as provided in the preceding section, shall include in said valuation all good balances of accounts on his books, and all notes at their true value in money, and said list shall be rendered under oath as prescribed by this act in cases of personal property.

MANUFACTURERS.

Sec. 56. Every person who shall purchase, receive or hold personal property of any description for the purpose of adding to the value thereof by process of manufacturing, refining, rectifying, or by combination of different materials, with a view of making a gain or profit by so doing, shall be held to be a manufacturer, and he shall make out and deliver to the assessor a sworn statement of the amount of his other personal property subject to taxation also including in his statement the average value estimated, as provided in section 54, of all articles purchased, received or otherwise held for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining, which, from time to time, he shall have on hand during the year next previous to the time of

making such statement, if so long he shall have been engaged in such manufacturing business, and, if not, then during the time he shall have been so engaged. Every person owning a manufacturing establishment of any kind and every manufacturer shall list, as a part of his manufacturer's stock the value of all engines and machinery of every description used or designed to be used for the aforesaid purpose.

BANKS, BROKERS AND STOCK JOBBERS.

Sec. 57. Every corporation, company, individual person or association of persons, whether authorized by law to issue notes for circulation or not, that shall keep an office, counting-house or other place for the transaction of business in this state, and shall discount, buy or sell or exchange notes, bonds, stocks, certificates of public debt, or other evidences of debt, claims or demands with a view of profit, shall be deemed a bank within the meaning of this act. *Act March 31, 1883, secs. 27-29.*

Sec. 58. Every bank shall annually, on the first Monday in July, in each year, make out and deliver to the assessor a correct statement, attested by the oath of the president and cashier of such bank, and if there be no president or cashier, then by the oath of the principal manager and principal accountant of such bank, setting forth:

First. The amount of capital, whether divided into shares or not, actually paid in, or secured to be paid by note or otherwise, or in any manner procured or furnished, to be employed in its banking business.

Second. The amount of undivided profits arising from such business belonging to the bank, whether in its possession or subject to its control, or loaned or otherwise invested for its benefit.

Third. The value of moneys, credits or other personal property, converted into bonds or other securities of the United States, or of this state, not taxed, in the year immediately preceding the first Monday in June of the year in which the assessment is made, and which said bonds or securities on said first Monday in June were in possession or control of such bank.

Fourth. The amount loaned to or deposited with such bank for a term certain, or which, by agreement or understanding between the parties, is not to be withdrawn on demand, excepting the amount which may have been deposited with any bank established as a clearing house for the redemp-

tion of the notes of banks making such deposits, and on which no interest is charged or received by the bank making such deposit.

Sec. 59. Said several amounts shall truly represent the condition of the means, property and assets described herein, as they shall have existed on the first Monday in June, and shall be added together, and the gross sum so produced shall be deemed the amount of property employed in banking for the then current year by such bank. *Act March 28, 1887, secs. 11 and 12.*

Sec. 60. The shares of persons in banks taxable by law, that the holders or owners thereof are not required to list in person by the provisions of this act, shall be listed by the president or principal accounting officer or agent thereof, showing the name or names of the person owning or holding the same.

Sec. 61. The taxes assessed upon the shares of stock thus listed shall be paid by the corporation or company, respectively, and they may recover from the owner or owners of such shares the amount of taxes to be paid by them, or deduct the same from the dividend accruing on such shares, and the amount paid shall be a lien on such shares, respectively, and shall be paid before a transfer of such stock or shares can be made.

Sec. 62. The assessor shall return to the clerk of the county court the statement described in section 58, made by any bank in his county, and the amount so returned shall be placed upon the tax-books of the county, and taxed as other personal property in such city, town, ward or school district as the same may be situate. *Act March 31, 1883, secs. 30-31.*

Sec. 63. It shall be the duty of every assessor, in whose jurisdiction there shall be located any such bank or banking company, to leave with some proper officer or agent of such bank or banking company notice to make out and deliver, within ten days, the statement required in section 58, such notice to be delivered at least ten days before the first Monday in July of each year. *Act March 28, 1887, sec. 13.*

Sec. 64. Each assessor of any county, within the limits of which any such bank or banking company may be located, in case any president or cashier, agent or principal accounting officer of such bank or banking company shall refuse or neglect to make out and deliver to the assessor the statement hereinbefore required, shall, as in any other case, ascertain the

amount of such capital stock, surplus and contingent fund, and undivided profits, and shall return the same to the clerk of the county court, and the amount thus ascertained, with fifty per centum thereto added as a penalty, shall be entered upon the tax-book for taxation. *Act March 31, 1883, sec. 33.*

Sec. 65. When any person shall commence or engage in the business of dealing in stocks of any description, or in buying or shaving any kind of bills of exchange, stocks, drafts, bank notes, promissory notes, or other kind of writing obligatory, the average value of whose personal property and moneys intended to be employed in such business shall not have been previously entered on the assessor's list for taxation in said county, such person shall report to the assessor the probable average value of moneys and other personal property by him intended to be employed in such business until the first Monday in June next succeeding, and the assessor shall deliver a list thereof to the county clerk, who shall enter the same upon the tax-book and extend the taxes thereon as in the case of other personal property. *Act March 28, 1887, sec. 14.*

Sec. 66. If any person shall commence or engage in any business as aforesaid, and shall not within thirty days thereafter report to the assessor and make payment to the county collector as before required, he shall forfeit and pay double the amount of taxes that would be due thereon, as a penalty for such failure, upon the amount returned for taxation by the assessor. *Act March 31, 1883, sec. 35.*

PULLMAN CARS, EXPRESS AND TELEGRAPH COMPANIES (s).

Sec. 67. It is made the duty of every sleeping or dining car company, express company, or telegraph company, incorporated by the laws of this or any other state, and carrying on business in this state, on the first Monday in June, 1899, and every second year thereafter, to make out and file with the board of railroad commissioners of this state a statement showing in detail the following:

First. A certified copy of the articles of incorporation under which

(s) This act has been held unconstitutional and void by the United States circuit court for the Eastern District of Arkansas, on the 14th day of April, 1894, but such decision does not justify the digester to omit it, and it is given as passed by the general assembly, with this cautionary note.

the said company is organized and carrying on business; said copy is to be filed but once unless the board shall otherwise direct.

Second. The amount of capital stock subscribed, whether designated as common or preferred stock or by any other name or description, showing the par value of each share, and the market value thereof at the time the said certificate is required to be made.

Third. The total number of miles of railway, within or without this state over which such sleeping or dining car company runs its cars, or such express company carries on its business; and the number of miles of line within and without this state which any such telegraph company employs in the transaction of its business.

Fourth. The number of miles of railway in this state over which any such sleeping or dining car company may be running its cars, and over which any such express company may be carrying on its business; and the number of miles of line which any such telegraph company may employ in this state in the transaction of its business.

The statements contained in any such certificate shall be sworn to by a general officer of such corporation whose service therein makes it his duty to be personally informed about the matters to be included in such certificate. False swearing in making any of the statements required to be set forth in said certificate is hereby declared to be perjury, and shall be punished as such. If the board of railroad commissioners shall have reason to believe that any statement contained in any such certificate filed with them is false in any material matter, it is hereby made their duty to procure other information about the matters to be contained in such certificate. The said board shall also have power and it is hereby made their duty to resort to other sources of information in the event any such corporation shall fail or refuse to file the certificate aforesaid.

Sec. 68. When such certificates shall have been filed with said board, or such other information obtained, the said board shall proceed to ascertain the value of the entire capital stock, or of each and every one of the corporations aforesaid, and shall thereupon fix the sum at which the property of any such corporation shall be assessed in this state for purposes of taxation, by taking the same proportion of the aggregate value of the capital stock of any such corporation as the number of miles of railway in this

state over which such sleeping or dining car company, or express company carries on its business, or as the number of miles of line employed in this state by any such telegraph company in the transaction of its business bears to the aggregate number of miles of railway within as well as without this state over which such sleeping or dining car company or express company carries on its business; or in the case of any such telegraph company, the number of miles of line employed in this state bears to the entire number of miles employed by it within as well as without this state.

Sec. 69. After the said board shall have ascertained the aggregate amount to be assessed against the property of any such corporation, the said board shall further ascertain the parts of such aggregate valuation to be apportioned to the several counties in which such property is subject to taxation, which shall be done by dividing the aggregate amount fixed as said taxable value in this state by the entire number of miles of railway or telegraph lines over which such corporations carry on its business in the entire state, and the result shall be the value per mile of such capital stock for the purpose of taxation; and the value per mile of such capital stock, ascertained as aforesaid, shall be multiplied by the number of miles of railway or telegraph lines lying and being situated in any county, and the product thereof is the sum to be taxed in such county; and it shall be the duty of the secretary of state, at the same time that he is required to certify the assessment of rolling stock of railroad corporations to certify to the assessor of said respective counties in which said sums are to be taxed, the amount to be taxed in each particular county, and said assessor shall list and assess the same as personal property, designating the same as "capital stock of"

Before the county court shall allow the assessor any compensation for his services it must appear that this entry has been properly made upon the proper assessment book.

Sec. 70. If it shall appear that any telegraph, express or sleeping or dining car company has been doing business in this state before the passage of this act under such circumstances as to render its property liable to taxation under the constitution and laws of this state, and that from any cause it has not been assessed for taxation, then and in that event it is hereby made the duty of the attorney-general to forthwith institute a suit or suits

in equity for the purpose of having such omitted taxes assessed and collected for the year or years for which the property of said corporation so escaped taxation, and any assessment made in the progress of any such suit shall be made in the manner and by the board designated in this act to whom the same shall be referred by proper order of the court before which any such suit may be pending, and such assessment when so made shall be by said board certified to said court and shall be made the basis of its decree, if liability shall otherwise be found to exist. Said proceedings shall be conducted so far as the same may be applicable under the provisions of this act and of the act approved March 1st, 1887, being "an act to provide for the collection of overdue taxes from corporations doing business in this state." *Act April 8, 1893.*

Sec. 71. The office furniture and other real and personal property of telegraph and express companies shall be assessed in the county, city or town where the same is used or kept, in like manner as other real and personal property in such county, city or town is assessed (t). *Act March 31, 1883, sec. 38.*

PAWNBROKERS.

Sec. 72. Every person or company engaged in the business of receiving property in pledge or as security, for money or other things advanced to the pawner or pledger, shall annually, at the time by this act prescribed for the assessment of personal property, return, under oath, all property pledged to and held by him as a pawnbroker to the assessor of the proper county, who shall list and assess the same to such pawnbroker at its fair cash value.

MUTUAL LOAN, BUILDING, GAS, TELEPHONE, WATER AND OTHER CORPORATIONS AND ASSOCIATIONS, OTHER THAN INSURANCE COMPANIES AND CORPORATIONS IN THIS CHAPTER SPECIFICALLY PROVIDED FOR.

Sec. 73. The shares of stocks of mutual loan and building associations shall be assessed at their cash value, but only the unredeemed shares of such stock, or those not transferred to the association, shall be taxed,

(t) Whether this act is repealed by act April 8, 1893, is not a question for the Digester, as the repeal is not so plainly evident as to justify its omission.

and such unredeemed shares shall be listed in the name of the individual owners thereof. *Act March 31, 1883, secs. 40, 41.*

Sec. 74. Gas, telephone, bridge, street railroad, savings banks, mutual loan, building, transportation, construction, and all other companies, corporations or associations, incorporated under the laws of this state, or under the laws of any other state, and doing business in this state, other than insurance companies and the companies and corporations whose taxation is in this act specifically provided for, in addition to the other property required by this act to be listed, shall, through their president, secretary, principal accounting officer or agent, annually, during the month of July, make out and deliver to the assessor of the county where said company or corporation is located or doing business a sworn statement of the capital stock, setting forth particularly:

First. The name and the location of the company or association.

Second. The amount of capital stock authorized, and the number of shares into which such capital stock is divided.

Third. The amount of capital stock paid up, its market value, and, if no market value, then the actual value of the shares of stock.

Fourth. The total amount of all the indebtedness, except indebtedness for current expenses, excluding from such indebtedness the amount paid for the purchase or improvement of the property.

Fifth. True valuation of all tangible property belonging to such company or corporation; such schedule shall be made in conformity to such instructions and forms as may be prescribed by the auditor of state. *Act March 28, 1887, sec. 17.*

Sec. 75. The assessor shall, annually, at least ten days before the thirtieth day of June, deliver to the president, secretary, accounting officer or agent of any such company, corporation or association located in or doing business in such county a notice in writing to return such schedule by the thirty-first day of July next ensuing. Any president, secretary, principal accounting officer or agent, of any such companies or corporations, upon whom such notice shall have been served, wilfully neglecting or refusing to make such return by the thirty-first day of July next ensuing, after the delivery of said notice, shall be guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding one hundred dollars, or im-

prisoned not exceeding three months, or both, and the assessor shall, from the best information he can obtain, make out and enter upon the proper assessment roll a list, with the valuation, of all tangible and intangible property belonging to such defaulting company or corporation subject to taxation by the provisions of this act, with fifty per cent. penalty.

RAILROAD COMMISSIONERS.

Sec. 76. The governor, secretary of state and auditor of state are constituted a board of railroad commissioners for this state.

Sec. 77. That on the first Monday in June in each year shall proceed to ascertain the value of all property, including railroad track, rolling stock, water and wood stations, passenger and freight depots, offices, furniture and such other property, real and personal, as is owned by each of the railroads or railways of each company or corporation having existence under the laws of this state, or incorporated in whole or in part therein and running through or in the state in the manner hereinafter prescribed (u). *Act May 4, 1899.*

MANNER OF LISTING AND VALUING PROPERTY OF RAILROADS.

Sec. 78. Every person, company or corporation owning or operating a railroad in this state, shall return sworn lists or schedules of taxable property, of such railroads as hereinafter provided. Such property shall be listed and assessed with reference to its amounts, kind and value on the first Monday in May of the year in which it is listed. *Act May 4, 1899.*

Sec. 79. Such person, company or corporation shall, on the first Monday in May, in the year 1899, and at the same time every second year thereafter, when required, make out and file with the secretary of state, a statement or schedule showing the length of the main line and all side tracks, switches and turn outs in each county in which the railroad may be located, and in each city and town in said county through or into which the railroad may run. *Act May 4, 1899.*

(u) Bridge companies and corporations other than railroad and insurance companies, are to be assessed by the county assessors. *Ry. v. Williams*, 53—58. See *Ry. v. Worthen*, 52—529.

Exemption from taxation granted a railroad company is a personal privilege and does not pass to a purchaser by mortgage and is lost by consolidation. *Ry. v. Berry, Gov.*, 44—17.

Sec. 80. Such person, company or corporation shall also state the fair and actual aggregate value of the whole railroad, taking into consideration in estimating and fixing such value, the entire right of way, as given by the charter of the company or statutes of the state, and also taking into consideration and estimating everything of any character whatever situated upon such right of way, and appurtenant to such railroad which adds to the value of such railroad as an entire thing (v).

Sec. 81. The officer or person making such statement or schedule on behalf of any railroad company, shall verify the same by his oath thereto appended, in which he shall state, that in fixing the value of such railroad, he has considered and valued the right of way and everything thereon appurtenant to the railroad, which adds to the value of such railroad, and that the sum or amount stated in the schedule is the fair aggregate or entire value of such railroad, to the best of his knowledge and belief.

Sec. 82. New companies shall make and file such schedule in May next after the location of their road. When such schedule shall have been once made it shall not be necessary to report the description as hereinbefore required, unless directed so to do by the board of railroad commissioners; but such companies shall annually, during the month of May, report the value of such property by the description set forth in the following sections, and note all additions and changes which shall have occurred in such right of way. *Act March 28, 1887, secs. 18-21.*

Sec. 83. Such railroad, as described and scheduled in sections 78-82, shall be held to be real estate for the purpose of taxation, and denominated "railroad track," and shall be so listed and valued, and shall be described in the assessment thereof as the railroad track of the _____ railroad company, in the county, city or town, and such description shall be considered as embracing all the property required to be assessed by sections 78-82, and when advertised and sold for taxes no other description shall be necessary. *Act March 31, 1883, sec. 47.*

Sec. 84. The movable property belonging to a railroad company shall be held to be personal property, and denominated, for the purposes of taxation, "rolling stock." Every person, company or corporation owning, con-

(v) For decisions on this subject under prior statute, see *Ry. v. Worthen*, 46—312; *Huntington v. Ry.*, 120 U. S., 97.

structing or operating a railroad in this state, shall, in the month of May, annually, make and file with the secretary of state a list or schedule which shall contain a correct detailed inventory of all the rolling stock belonging to such company, together with the true valuation thereof, and which shall distinctly state and set forth the number of locomotives of all classes, passenger cars, dining cars, express cars, coal cars, pay cars, constructing and working cars, caboose cars, hand cars, cattle cars and all other kinds of cars belonging to such road, and also all locomotives and cars not belonging to such company, but hired for its use for a term of not less than six months, it not being intended to tax locomotives or cars temporarily coming into or passing through this state, but only to tax such as are actually owned or leased by the companies in this state. Said schedule shall set forth the number of miles of track on which said rolling stock is used in this state, and the number of miles of track upon which said rolling stock is used in other states.

Sec. 85. The board of railroad commissioners shall meet on the first Monday in June each year, at the office of the secretary of state, and, after being duly sworn to fearlessly, impartially and honestly discharge their duties, shall proceed to examine the lists or schedules of the description and value of the railroad track of the railroad companies filed with the secretary of state in accordance with the requirements of this act, and if said schedules are made out in accordance with the provisions of this act, and, in the opinion of the board, the value of said railroad track is fair and reasonable, said board shall appraise the same, and it shall be the duty of the secretary of state to certify to the assessor of each county in which such railroad is located so much of said list as values such railroad track as is located in said county, and in any city or town of such county, and such assessor shall list and assess the same as real estate, by the description as hereinbefore specified. *Act March 28, 1887, secs. 22 and 23. As amended by Act May 4, 1899.*

Sec. 86. Said board, for the purpose of finding the value of the rolling stock of railroad companies in this state, shall take the total value as stated in the list and schedule of the rolling stock of each of the respective railroads of this state, filed in accordance with the requirements of this act, and divide the same by the number of miles in the entire length of such

railroad, and the result shall be the value per mile of such railroad for the purpose of taxation, and the value per mile of any such railroad so ascertained shall be multiplied by the number of miles or fraction of miles, thereof lying and being in any county, and the product thereof is the sum to be taxed in such county; and it shall be the duty of the secretary of state to certify to the assessor of the respective counties in which said sums are to be taxed, the amount to be taxed in their respective counties, and such assessors shall list and assess the same as personal property, designating the same as "rolling stock of ——— railroad company." *Act March 31, 1883, sec. 50.*

Sec. 87. All other personal property belonging to any other railroad company except rolling stock, shall be listed and assessed in the county wherever the same may be, on the first day of July in each year; all other real estate, including the buildings and structures thereon, other than that denominated railroad track, belonging to any railroad company in this state, shall be listed and assessed by the assessor of the county in which they are situated, at the same time and in like manner as real estate belonging to individuals is by this act required to be listed and assessed.

Sec. 88. If any person, corporation or company owning, operating or constructing any railroad in this state shall neglect or refuse to make return to the secretary of state of the statement or schedules required by sections 78-82 to be returned to him by the first Monday in June in each year, the secretary of state shall notify the governor of such default, and it shall be the duty of the governor forthwith to convene said board of railroad commissioners, and said board shall proceed at once, with the assistance of the county clerks and assessors of the counties in which such railroad is located, when they shall require such assistance, to ascertain the necessary facts in connection with the location and value of the railroad and rolling stock belonging to such defaulting railroad company, and in the discharge of their duty said board shall have power to summon before them any person as a witness, and to have produced before them the books and papers of such defaulting railroad company, administer oaths and examine any person summoned before them touching any matter necessary to enable said board to arrive at a just and correct value and description of the railroad track and rolling stock belonging to such railroad company, and shall have

power to direct their writs of summons to any sheriff of any county of this state, and it shall be the duty of such sheriff to execute any and all process to him directed by said board, and any person called before said board to testify shall be guilty of perjury if he shall testify falsely, and said board having ascertained in the manner herein indicated the description and value of the railroad track and rolling stock belonging thereto in each county, the secretary of state shall certify the same to the respective county assessors, as provided for in sections 85 and 86, and said assessors shall proceed at once to list and assess the same as hereinbefore prescribed.

Sec. 89. Any person, corporation or company operating, owning or constructing a railroad in this state who shall fail to make return of the statement or schedule by sections 78-82 required, to the secretary of state by the first Monday in June in each year, such person, company or corporation shall forfeit to the state, as a penalty, not less than one thousand dollars nor more than ten thousand dollars for each offense, to be recovered in any proper form of action, in the name of the State of Arkansas, and paid into the state treasury. Upon failure of any person, company or corporation to make such return at the time aforesaid required, the secretary of state shall at once notify the attorney-general of such default, and it is made the duty of the attorney-general to institute the necessary legal proceedings to collect said penalty.

Sec. 90. The secretary of state shall, on or before the first Monday in May in each year, notify each person, company or corporation owning, operating or constructing a railroad in this state, that such statement or schedule is required to be filed by the first Monday in June next ensuing; said notice to be printed or written, and may be served by delivering the same to any agent of such railroad company, or by depositing the same in the post-office addressed to such person, company or corporation at a point where the general office of such railroad company is established, or at any city or town where such railroad company is transacting business and has an office or station. *Act March 28, 1887, secs. 24-27.*

Sec. 91. Each person, corporation or company owning or operating a railroad, or any part thereof, in this state shall file the list and schedule in this chapter prescribed, notwithstanding it may be specified in the charter of any such railroad that such railroad shall be exempt from taxation, or

exempt until the happening or accomplishment of any one or more facts. *Act March 31, 1883, sec. 55.*

Sec. 92. The board of railroad commissioners shall hold their annual meetings herein provided for at the office of the secretary of the state, on the first Monday in June in each year; and, if they shall not complete their work on said day, shall meet from day to day until the same shall have been completed. The governor shall have the right to convene said board in special meetings at any time. *Act March 28, 1887, sec. 28.*

ASSESSOR.

Sec. 93. At the general election in the year 1884, and every second year thereafter, there shall be elected a person in each county in this state as assessor, in the same manner as other county officers are now elected, whose term of office shall continue for two years, or until his successor is duly elected and qualified, who shall, within fifteen days after the receipt of his commission, enter into bond to the State of Arkansas, with good and sufficient security, in a sum of not less than one thousand dollars nor more than eight thousand dollars (the amount to be determined by the county court), conditioned for the faithful discharge of his official duties, which bond shall be approved by the county judge; and said assessor shall be liable on his official bond to the state, county and any school district, city or incorporated town for all damages sustained by the state, county, school district, city or incorporated town by reason of any failure, neglect or refusal to discharge his duties according to law, which damages may be recovered in the same manner as other damages are recovered on other official bonds.

Sec. 94. Every assessor shall, on or before the first day of January succeeding his election, and before entering upon or discharging any of the duties of his office, take and subscribe to the oath prescribed in section twenty, article nineteen, of the constitution of Arkansas, and, in addition thereto, the following oath or affirmation, which oath shall be indorsed upon the assessment books prior to their delivery to the assessor:

“I, ———, assessor for ——— county, do solemnly swear that the value of all real and personal property, moneys, credits, investments in bonds, stocks, joint stock companies, of which statements may be made to me by persons required by law, will be appraised at its actual cash value; that in no case will I, knowingly, omit to demand of any person or corpora-

tion, of whom by law I may be required to make such demand, a statement of the description and value of personal property, or the amount of moneys and credits, investments in bonds, stocks, joint stock companies or otherwise, which he may be required to list, or in any way connive at any violation or evasion of any of the requirements of the law or laws in relation to the listing or valuation of property, credits, investments in bonds, stocks, joint stock companies or otherwise, of any kind, for taxation" (w). *Act March 31, 1883, secs. 57, 58.*

Sec. 95. Every assessor who shall have failed to take and subscribe to the oath prescribed in section 94 at the time therein stated, is granted until the time provided by law for entering upon the discharge of their duties, to take and subscribe to the oath prescribed in section 94, and the acts of every assessor who shall take said oath within the time herein granted, shall be as valid as if he had taken and subscribed to said oath at the time now provided by law. *Act February 13, 1889.*

Sec. 96. If any person so elected fails or refuses to take the oath required in section 94, and file the same with the clerk of the county court of his county, within the time prescribed, the office shall be declared vacant, and the clerk of the county court shall immediately notify the governor, and such vacancy shall be filled in accordance with the constitution and laws of the state (x). *Act March 31, 1883, sec. 59.*

Sec. 97. It is hereby made the duty of the assessors of the state to indicate on the tax lists made and filed by them, by an appropriate indication, the fact of whether the person assessed is of the white or colored race. The assessors shall also indicate in like manner all assessments against corporations. In making out the tax-books for the collectors, the clerks shall make proper entries to show whether any particular tax-payer is of the white or colored race, or a corporation. The collector in preparing his receipts shall also indicate this fact when payment is made to him, and in making his return to the county court at the time of making his final settlement, he shall indicate the amount of taxes paid respectively by persons of the white and colored race, and shall report at said time to the auditor the aggregate amount of taxes thus paid respectively, as well as the total number of poll-taxes paid, and the number paid by each of said races.

(w) See *Moore v. Turner*, 43—243; *Radcliffe v. Fletcher*, 46—97; *Equalization Board v. Land Owners*, 51—516; *Barton v. Lattourette*, 55—81.

(x) See *Sec. 2691 and note.*

A failure to comply with the provisions of this act shall be cause for denying to said officers the fees and commissions allowed by law. Immediately upon the passage of this act a copy thereof shall be furnished to every assessor, collector and county clerk in the state. *Act April 19, 1895.*

Sec. 98. The assessor herein provided for shall appraise the real and personal property in his county in such manner and at such times as prescribed by this act, and shall be allowed the following compensation for his services: For each name listed, twenty cents, and all of the property belonging to one individual or corporation in the county to be counted as one name.

Sec. 99. For each list of real property the owner or owners of which are unknown, or non-residents, one dollar, and all such lands in one township and range to be embraced or counted as one list, but if any unknown person or non-resident owns lands in more than one township he shall be allowed one dollar for each township (1). *Provided*, no fee shall be allowed any assessor for listing any name or personal property unless said party or property as the case may be, is in the county and subject to taxation. *Act February 9, 1893.*

Sec. 100. One-half of the compensation of each assessor shall be paid by the state, and one-half by the county, and the county court shall draw its warrant on the county treasurer for one-half of the amount due to the assessor, and it shall, at the same time, certify to the auditor the amount due to said assessor on the part of the state, the same being one-half of the total amount due to said assessor, thereupon the auditor shall draw his warrant on the state treasurer for said amount. *Act February 15, 1889.*

Sec. 101. Assessors shall receive no other or further compensation for the discharge of the duties required of them than is provided by law. *Act March 3, 1875, sec. 3.*

Sec. 102. Any assessor who shall deem it necessary to enable him to complete, within the time prescribed by this act, the listing and valuation of the property, moneys and credits of his county, may, with the approval of the judge of the county court, appoint such number of assistants, having the legal qualifications, as he shall think necessary in order to enable him to comply with the requirements of this chapter, and each assistant so appointed shall, within the division assigned him, perform all the duties en-

(1) *Bell v. Ark. Co.*, 44—493.

joined upon assessors by law, and each assistant assessor shall swear to the correctness of the assessment and valuation of the property made by him, as the assessor is required to do, and the assessor and his assistants are authorized to administer such oaths as are necessary to a proper discharge of their duties, as prescribed by law. *Act March 21, 1883, sec. 61.*

Sec. 103. The assessor shall, before the second Monday in May, annually post up in three or more public places in each township of his county, written or printed notices, that he, at a day therein named, will attend at the usual voting place in said township, and for ten days, to be designated in said notice, at the county site, said ten days to be after said assessor has visited each township in his said county for the purpose of taking a list of the real and personal property of each resident of said township, and the per capita tax of such as are liable to pay the same, and said assessor shall remain at each voting place at least one day, where the voting population is less than seventy-five, and two days where it is seventy-five and not more than one hundred and twenty-five, and three days where it is more than one hundred and twenty-five; and the assessor upon application shall furnish each taxpayer an appropriate printed blank upon which to list his property subject to taxation. *Act February 15, 1889.*

Sec. 104. If any taxpayer shall have failed to render to the assessor, at the usual place of voting in his or her township or ward, at the time said assessor shall be engaged in assessing the taxable property of such township or ward, and such taxpayer shall render to such assessor a list of his or her taxable property as required by law at his office, or place of business, or at any other voting place or ward in such county, town or city when the assessor may be engaged in making assessments, at any time thirty days prior to the time when such assessor is by law required to complete and file with the county clerk the tax lists as required by law, he or she shall not be considered a delinquent recusant, and shall not be liable to, nor be charged, nor assessed with any penalty for failure to render such list in proper time; *provided*, such assessor shall not have called upon and demanded of said taxpayer such list; and *provided, further*, no assessor shall be permitted to assess any penalty against any taxpayer until after the lapse of twenty days from the close of the time set under notices given for assessments in all the townships and wards of his county. *Act April 12, 1893.*

Sec. 105. If any person shall refuse or neglect to attend in pursuance of said notice at the voting place of his township, or at the county site of his county, or shall fail to make out and deliver to said assessor a statement of personal property, money, and credits, investments in bonds, stocks, joint stock companies or otherwise, or shall refuse or neglect to take and subscribe an oath or affirmation as to the truth of such statement which he is required to verify, and of the value of personal property subject to taxation, said assessor shall, from the best information he can procure, obtain the list of property subject to taxation belonging to said delinquent in said county, and thereupon visit said delinquents at their places of residence and require of them the lists of real and personal property subject to taxation aforesaid, and if such delinquent resident can not be found, or shall refuse to furnish the desired information, he shall proceed to examine on oath or affirmation all parties whom he may suppose to have a knowledge of said taxable property, and shall list and value the same from the best information in his power to obtain. *Act February 15, 1889, sec. 2.*

Sec. 106. Said assessor shall enter on the list of each delinquent recusant taxpayer aforesaid a charge of one dollar, which shall be entered and run out on the tax-books against said taxpayer, and shall be collected by the tax collector, and one-half of which shall be paid to said assessor in addition to the other fees allowed said assessor, and the balance shall be paid into the school fund of the proper school district of said county. *Provided*, in case of the sickness of said taxpayer, the same shall be a sufficient excuse for non-attendance at the time and place designated as aforesaid, upon said taxpayer filing with the county clerk an affidavit that he was prevented by sickness from giving to the assessor the required statement when called on for that purpose. *Act March 28, 1887, sec. 51.*

Sec. 107. In all cases in which the assessor is required, in consequence of sickness or absence of the person whose duty it is to make out a statement of personal property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, or in consequence of his neglect or refusal to make or to be sworn to such statement, to ascertain the several items and the value thereof, the assessor, if he shall be unable to ascertain by positive evidence the several items and value thereof, shall return such articles and the value thereof, as from general reputation, and his own knowledge of the

facts and circumstances, he believes to be a correct list of the articles and the value thereof that such person would be by this chapter required to list. *Act March 31, 1883, sec. 64.*

Sec. 108. Each assessor shall, on or before the second Monday in September in each year, make out and deliver to the clerk of the county court of his county, in tabular form and alphabetical order, a list or lists of the names of the several persons, companies or corporations in whose name any personal property, money, credits, investments in bonds, stock, joint stock companies or otherwise, shall have been listed in his county, and he shall enter separately, in appropriate columns, opposite each name, by an appropriate indication, the fact of whether the person assessed is of the white or colored race, the aggregate value of the several species of personal property enumerated in section 48, making separate lists of persons residing out of an incorporated city, town or village, and of persons who are residents of an incorporated city, town or village, and shall state the number of the school district in which they reside when he assessed them. The columns shall be accurately added up, and in every case where any person whose duty it is to list any personal property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, for taxation shall have refused or neglected to list the same when called on for that purpose by the assessor, or to take and subscribe an oath or affirmation in regard to the truth of his statement of personal property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, when required by the assessor, he shall enter opposite the name of such person, in an appropriate column, "refused to list" or "refused to swear," as the case may be. In every case where any person required to list property for taxation shall have been absent, or unable from sickness to list the same, the assessor shall enter opposite the name of such person, in an appropriate column, the word "absent" or "sick," as the case may be. To which return said assessor, or assistant assessor, shall be required to make oath in the following words, viz.:

I, _____, Assessor for County of _____ and State of Arkansas, do solemnly swear that I have made diligent efforts to ascertain all the taxable property being situate or subject to taxation in said County of _____; that so far as I have been able to ascertain, the same

is correctly set forth and described in the foregoing returns, and that the property therein mentioned is not appraised at less than its true value in money, so help me God.

Assessor.

Sworn to and subscribed before me this _____ day of _____
18____.

_____, Clerk _____ County.

Act March 28, 1887, sec. 30.

Sec. 109. Each assessor shall, at the time he is required to make his return of taxable property to the clerk of the county court, also deliver to him the statements of property which he shall have received from persons required to list the same, arranged by school districts and in alphabetical order, and the clerk of the county court shall carefully preserve the same in his office for four years, and should the records of any county in the state be destroyed by fire or otherwise, after assessments have closed for any year, and before the collection of the taxes, the assessor is authorized to make another assessment as heretofore provided.

Sec. 110. Each assessor shall, at the time of taking the list of personal property, also take a list of all real property situate in his county that shall have become subject to taxation since the last previous listing of property therein, with the value thereof estimated agreeably to the requirements of this chapter, and of all new buildings and structures of any kind over one hundred dollars in value, the value of which shall not have been previously added to or included in the value of the land on which structures have been erected, and shall make return thereof to the clerk of the county court at the same time he is required to make his return of personal property to such clerk. He shall describe the tract or lot of real property on which each of such structures has been erected, the kind of structures and the value thereof, and in the case of destruction by fire, flood, or otherwise, of any building or structures over one hundred dollars in value, which shall have been erected previous to the last valuation of the land upon which the same shall have stood, or the value of which shall have been added to any former valuation of such land, the assessor shall determine, as near as practicable, the value of such structures, and make reduction thereof, and make return

of the same to the clerk of the county court as in this section provided, and the assessor shall value all such lots of any town, or addition to any city or town, as may have been laid out in lots since the last appraisement, and make return at the time and in the manner hereinbefore indicated.

Sec. 111. Each separate parcel of real property shall be valued at its true market value in money, excluding the value of crops growing thereon; but the price at which such real estate would sell at auction, or at a forced sale shall not be taken as the criterion of such true value. Each tract of land belonging to this state, or to any county, city, town or charitable institution, whether corporated or unincorporated, and saline, swamp, seminary, school or mineral lands held under a lease exceeding five years, and not exceeding ten years, shall be valued at such price as the assessor believes could be obtained at a private sale for such leasehold estate. Personal property of any description shall be valued at the usual selling price of similar property at the time of listing. If any such property shall have no well fixed or determined value in that locality at the time, then the same shall be appraised at such price as in the opinion of the assessor could be obtained therefor at such time and place (y). Investments in bonds, stocks, joint stock companies or otherwise, shall be valued at their value in money, and the quotations and selling price thereof may be considered in determining their values. Money, whether in possession or on deposit in this state, or out of it, subject to the order or control of such person listing, shall be entered in the statement at the full amount thereof. Every credit for a sum certain, payable either in money, property of any kind, labor or service, shall be assessed according to its true value. If for a specified number or quantity of any article or articles of property, or for a certain amount of labor, or for services of any kind, it shall be assessed according to its true value. Annuities or moneys receivable at a stated period shall be rated at the price which the same may be worth in money. Where the fee of the soil in any tract, parcel or lot of land is in any person or persons, natural or artificial, and the right to any mineral therein in another or others, the same shall be valued and listed agreeably to such ownership, in separate entries and taxed to the parties owning the same, respectively. *Act March 31, 1883, secs. 66-68.*

(y) See *art. XVI, sec. 5, Const.*

WHEN AND HOW TO ASSESS REAL ESTATE.

Sec. 112. Every assessor, on or before the second Monday in September, in the year eighteen hundred and eighty-seven, and every second year thereafter, shall make out and deliver to the clerk of the county court a report (z) in tabular form, contained in a book to be furnished him by such clerk of county court, of the amount, description and value of real property subject to be listed for taxation in his county, and the amount and description of all lands belonging to the United States and to the State of Arkansas; also, of all other lots, parcels or tracts of land exempt from taxation, which returns shall contain:

First. The names of the several persons, companies or corporations in whose names the several tracts of real property, other than property situate in incorporated cities and towns, in each congressional township within his county, shall have been listed, and in appropriate columns, opposite each name, the description of each tract by section, or the largest sub-division of which the same is capable, designating the number of the section and the part thereof, and the congressional township or survey, and the value of each tract determined by the assessor, lands belonging to the United States or to this state not to be valued.

Second. The names of several persons, companies or corporations in whose names the several lots of real property in each town or city in his county shall have been listed, and in appropriate columns, opposite each name, the description of each lot and value as determined by the assessor, and such description shall designate the town or city, the number of lots and parts thereof; and, if part of a lot is listed, it shall state the number of feet along the principal street on which it abuts. If the name of the owner of any tract of land or lot be unknown, the word "unknown" shall be entered in the column of names opposite said tract or lot. In making such return, each separate tract of land in each congressional township shall be placed according to the numeral order of the section, and each town or city lot according to the numerical order of lots and blocks, which returns shall be as near the following form as practicable:

(z) See *Moore v. Turner*, 43—243.

Names of Owners.	Part of Section.	Section.	Township.	Range.	No. of Acres.	Value.	No. of School Districts.	No. of Acres U. S. Lands.	No. of Acres State Lands.	No. of Acres otherwise exempt.	Value.
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With the following affidavit:

I, _____, assessor, do solemnly swear that the foregoing is correct, and that I have appraised each tract or lot of land, except United States or state lands, at its true value in money, and not at what it would bring at auction or at a forced sale, so help me God.

_____, Assessor.

Sworn to and subscribed before me this _____ day of _____ 18_____

_____, Clerk.

Act March 28, 1887, sec. 31.

Sec. 113. The commissioner of state lands shall each year, at least thirty days prior to the time fixed by law for the annual assessment of personal property, make out from the records of his office, complete and accurate lists by counties and by proper descriptions of all lands and town lots which may have been sold or otherwise disposed of by the state and properly subject to taxation, and he shall forward the same, when so made, to the clerks of the respective counties in this state, wherein such lands lie; and it is made the duty of such clerks, immediately on receipt of such lists, to enter the same upon the tax books of the county as lands subject to taxation, the assessors shall assess such lands for taxation, and the same shall be taxed, beginning with the year certified by the commissioner of state lands as having been disposed of by the state.

Sec. 114. The lists of lands disposed of by the registers and receivers of the several United States land offices, and certified by them, shall be filed in the state land office, and it shall be the duty of the commissioner of state lands to carefully compare such lists with the official plats of his office, and shall prepare complete and accurate lists by counties of the same, and shall forward them to the clerks of such counties, and such land shall be

entered upon the tax-books of such counties and shall be assessed and taxed by the state, beginning with the year they were finally disposed of by the United States; provided, such lands were disposed of by the United States prior to the time fixed for the annual assessment of personal property, and if subsequently disposed of, they shall be taxed, beginning with the next succeeding year. *Act March 28, 1887, secs. 1 and 2.*

Sec. 115. That on or before the first day of May in each year, after the passage of this act, the president and secretary of each of the levee boards created under the laws of this state and holding lands by virtue of any acts passed by the general assembly of the State of Arkansas, donating lands to the several levee districts in said state, shall file with the commissioner of state lands, a list of all lands disposed of by their respective boards the preceding year, showing the sections or parts of sections disposed of, the respective purchasers of each tract and the date of sale; *provided*, that the first report shall contain a list showing a description of all the lands previously sold and the respective purchasers of each tract.

That upon receipt of said report, it shall be the duty of the commissioners of state lands to certify down to the clerks of the respective counties, a list of all lands sold, to the end that they may be listed for taxation.

That upon failure of any levee board or boards to comply with section one of this act, the clerks of the respective counties in which the lands of such district or districts are situated, shall list all of the lands of such district or districts for taxation and said lands shall be taxed as lands of all private individuals, corporations and companies. *Act April 11, 1901.*

Sec. 116. It shall be the duty of each assessor to make out, from such sources of information as shall be in his power, a correct and pertinent description of each tract or lot of real property in his county, so that the same can be identified and distinguished from any other tracts or parts of tracts, and he shall place a value on each sub-division of a block and the improvements thereon in cities and towns, or additions thereto, notwithstanding the fact that one individual owns the whole block. And when he shall deem it necessary to obtain an accurate description of any separate tract or lot in his county, he may require the owner or occupier thereof to furnish the same, with any title papers he may have in his possession, and, if such owner or occupier, upon demand made for the same, shall neglect or refuse to furnish

a satisfactory description of such parcel of real property to such assessor, he may employ the county surveyor to make out a description of the boundaries and location thereof, and a statement of the quantity of land therein, and the expense of such survey shall be returned by such assessor to the clerk of the county court, who shall add the expense of such survey to the tax assessed upon such real property, and it shall be collected by the collector of the county with such tax, and, when collected, shall be paid on demand to the person to whom the same is due; and the assessor shall, in all cases, from actual view, or from the best sources of information within his reach, determine as near as practicable the true value of each separate tract and lot of real property in his county, according to the rules prescribed by this act for valuing property, and he shall note in his plat-book, separately, the value of all houses, mills and other buildings, which shall be carried out as a part of the value of such tracts.

Sec. 117. For the purpose of enabling the assessor to determine the value of buildings and other improvements, he is authorized to enter, with the consent of the owner or occupants thereof, and fully to examine all buildings and structures of whatsoever kind which are not by law expressly exempt from taxation; otherwise he shall determine the value by such information as he can obtain (aa). *Act March 31, 1883, secs. 70-71.*

Sec. 118. Whenever it shall be made to appear to the satisfaction of the county court of any county that any section, or part of section of land in such county is in such small or irregular sub-divisions as respects ownership thereof, that such sub-divisions or any of them can not be accurately or conveniently designated in the assessment list or tax list in the usual or ordinary manner of designating sub-divisions of land therein, it shall be the duty of such court to order the county surveyor of such county to make and return to the recorder of such county a plat, with accompanying marginal or foot-notes, of such section or part section, whereupon it shall be the duty of the county surveyor to promptly comply with and obey such orders, and in the plats and by the marginal or foot-notes which he shall make and return, he shall show the relative size and position of the several sub-divisions and the area of each thereof, which said sub-divisions shall be designated as "lots" and shall be numbered consecutively in like manner and order (in

(aa) See *Moore v. Turner*, 43—243.

so far as practicable) as is done in the case of fractional sections in the surveys and plats made under the direction of the United States general land office.

Sec. 119. It is made the duty of clerks of the county courts to promptly notify the county surveyors of their respective counties of all orders made by their respective courts in pursuance of this act.

Sec. 120. It is made the duty of the recorder of every county to provide and keep in his office a record book to be entitled, "Record of Surveyor's Plats and Notes," in which he shall accurately record or make a fair copy and transcript of every plat and the notes accompanying the same returned to him by the county surveyor, as in this act is provided.

Sec. 121. When a plat and notes accompanying the same of any section or part of section of land shall have been made, returned and recorded, as herein provided, a designation by number of a lot therein, either upon the assessment list, the tax-book, the delinquent list, or in any tax receipt, certificate of sale, tax-deed, or in any other deed or writing, shall be held and considered to refer to and as being intended to designate the sub-division of such section or part of section as is of the same number on such plat and the notes accompanying.

Sec. 122. Each of the officials named in this act shall be allowed a reasonable compensation for such services as he may be required to perform in pursuance thereof, to be determined by the respective county courts, payable out of the county treasury of the county in which the service shall be rendered. *Act April 4, 1887, secs. 1-4.*

Sec. 123. The assessor, at the time of making the assessments of real property subject to taxation, shall enter in a separate list pertinent descriptions of all burying grounds, public school-houses, houses used exclusively for public worship, and institutions of purely public charity, and public buildings and property used exclusively for any public purpose, with the lot or tract of land on which said house or institution or public building is situated, and which are by law exempt from taxation, and the value thereof. If such property is held and used for other public purposes, he shall state by whom or how it is held (bb).

(bb) See *Brodie v. Fitzgerald*, 57—445; *Board of Improvement v. School District*, 56—354.

Sec. 124. If demanded, the assessor shall deliver to the owner of any personal property assessed for taxation a copy of such assessment, and any person listing real estate for assessment may present to the assessor a written description of the same, and the assessor, after having entered the same upon the assessment list, shall return the same to him, with a certificate verifying the same as the assessment list furnished by such person for the assessment of that year.

Sec. 125. Whenever any person shall ascertain that an error has been made in the description of his lands, either by the assessor in listing the same, or by the clerk in making out the tax-books, he may present such certified description to the clerk of the county court, who shall correct the error in accordance therewith, on the margin of the assessment list in his office, and certify such amendment to the collector of his county, who shall make a like amendment on the tax-book.

Sec. 126. For the purposes of this chapter the terms town or city, and towns and cities, shall apply to all cities or towns, incorporated or not incorporated; also, to all blocks or lots, or parts thereof, assessed for taxation as such, whether the same is situated in an incorporated city or town or not. *Act March 31, 1883, secs. 72-75.*

COUNTY BOARD OF EQUALIZATION.

Sec. 127. The board of equalization of each county shall be composed as follows: Three intelligent citizens, real estate owners and qualified electors of such county, to be appointed by the governor on or before the first day of August, eighteen hundred and eighty-seven, and every two years thereafter; the said three citizens shall be selected from different portions of the county, and shall hold their office for two years.

Sec. 128. Said board shall meet in each county on the second Monday in September of each year, and organize by electing one of their number president. The clerk of the county court shall be clerk of said board. Each member of said board shall, before entering upon the discharge of his duties, take the oath of office prescribed in section twenty, article nineteen, of the constitution of Arkansas; *provided*, any party aggrieved by any action of the board may appeal therefrom to the county court. *Act March 28, 1887, sec. 32.*

Sec. 129. Counties of this state having two judicial districts shall have a board of equalization, for each judicial district when the same is authorized and recommended by the county court of any such county.

Sec. 130. The duties and qualifications and remuneration of said board shall be the same for each district as now provided by law for counties.

Sec. 131. The board for the district where the levying court does not meet, shall meet on the first Monday in September of each year at the place of holding the court in said district, and shall proceed to equalize the assessment of property in that district as now required by law in case of other boards in counties.

Sec. 132. The assessor shall have his assessment books completed and shall attend said board with said books in the manner he is now required by law to attend other boards; and after said board has finished the work of equalizing the assessment of the property in said district, the assessor shall take the assessment books and a copy of the journal of said board, which copy shall be furnished by the clerk of said board, and turn the same over to the board which meets in the district where the levying court meets.

Sec. 133. The board that meets in the district where the levying court meets shall proceed in the performance of their duties as now required by law. *Act March 22, 1887.*

Sec. 134. The county board of equalization in every instance where it raises the valuation of any property, personal or real, shall give to the owners of the property so raised in valuation or their agents, notice by postal card or otherwise through the mails, (cc) of such increase in value, stating the valuation as returned by the assessor and the valuation as fixed by the board, and said notice shall advise the owners of such property or their agents that they may appear before the county courts of their county at the terms thereof to be begun and held at the county seat, on the first Monday of October, next following the session of said board, and show cause, if any they can, why the valuation of their property should not have been raised.

Sec. 135. The board of equalization shall attend at said term of said court and show cause, if any they can, why such valuations were raised in cases where complaint is made of such increase. The county court shall

(cc) The jurisdiction of the board is not affected by the failure to give such notice. *Equalization Board v. Land Owners*, 51—516.

hear and determine all complaints made by the owners or agents of such property, and approve or reject the action of said board as the facts may warrant, and such action of the county court shall be final unless the owner or agents of such property as make complaint shall take an appeal to the circuit court (dd).

Sec. 136. The county shall pay all necessary expenses in giving the notice required in this act. *Act March 28, 1887, sec. 52.*

Sec. 137. Members of such boards of equalization shall receive the sum of three dollars per day for each day engaged in the discharge of their duties, as prescribed in this act. *Ib.*

Sec. 138. There shall be in the year eighteen hundred and eighty-seven, and annually thereafter, a session of the county board of equalization for the purpose of equalizing the assessment of personal property, moneys and credits in each county. Said session shall be held at the clerk's office in each county on the second Monday in September of each year.

Sec. 139. Said board, when in session, shall have power to hear complaints, and to equalize by adding to or taking from the valuation of all personal property, moneys and credits within the county; and if during the time of collecting taxes upon the property so equalized any obvious errors be discovered in the assessment of any personal property, or if the board of equalization shall have valued any property excessively, the owner of such property so assessed or equalized may, by application to the county court, by proper showing, at any time before the collector closes his books, have the same adjusted. It shall be the duty of the assessor to attend on the meetings of said board and explain his assessment to said board when requested. *Act March 28, 1887, sec. 33.*

Sec. 140. In the equalization of personal property the county board may add to or take from the valuation of the personal property, moneys or credits of any person returned by the assessor, or which may have been omitted by him, or add other items to it upon such evidence as is satisfactory,

(dd) The term "appeal" herein is not used in its technical sense, but in its popular signification to "invoke the aid of." *Prairie County v. Matthews*, 46—383.

The board is not a court and has no parties before it, and can render no judgment, nor grant any appeal. *Ib.*

All that is necessary to obtain the appeal contemplated is to apply to the county court for the correction of the error. *Ib.*

See *Watson v. Campbell*, 56—184.

whether such return is made upon the oath of such person or upon the valuation of the assessor. In the equalization of real property not previously entered for taxation on the tax-books as then listed, it shall raise the valuation of such tracts and lots of real property as in the opinion of the county board has been returned below their true value in money to such price or sum as it may find to be the true value thereof, agreeably to the rules prescribed by this chapter for the valuation of real property, or may reduce the valuation of such tracts or lots as in the opinion of the board have been returned above their true value, as compared with the average valuation of the real property of such county, having due regard to their relative situation, quality of soil, improvement and natural and artificial advantages possessed by each tract or lot. For the purpose of this equalization said board, or any member thereof, shall have free access to the county records of the county, and it is made their duty to carefully examine said records in making their investigations for the purpose of equalizing the said assessment.

Sec. 141. The clerk of the county court shall keep an accurate journal or record of the proceedings of said board.

Sec. 142. In case a vacancy should occur in said board, the governor shall fill the same by appointment. *Act March 31, 1883, sec. 83.*

REAL ESTATE.

Sec. 143. The county board of equalization shall meet on the second Monday in September, in the year eighteen hundred and eighty-seven, and every second year thereafter, at the office of the clerk of the county court, and each member of said board shall take an oath to fearlessly, impartially and faithfully equalize the value of the property assessed. *Act March 28, 1887, sec. 34.*

Sec. 144. The clerk shall lay before said board the returns of the real property made by the assessor, and said board shall immediately proceed to equalize the valuation of such real property, so that each tract or lot shall be entered upon the tax-books at its true value in money, and for this purpose shall observe the following rules:

First. It shall raise the valuation of such tracts and lots of real property as in the opinion of the board have been returned below their true value to such price or sum as may be deemed to be the true value thereof, agree-

ably to the requirements of this chapter in regard to the valuation of real property. Said board may actually enter upon and view property when they are not fully satisfied of its true value.

Second. It may reduce the valuation of such tracts or lots as in the opinion of the board have been returned above their true value, as compared with the average valuation of the real property of such county, having due regard to the relative situation, quality of soil, improvements and natural and artificial advantages.

Sec. 145. The clerk of the county court shall receive the sum of three dollars per day for each day said board remains in session. *Act March 31, 1883, sec. 84.*

DUTIES OF CLERKS OF COUNTY COURTS IN ABSTRACTING REAL ESTATE.

Sec. 146. The clerks of the county court of each county shall on or before the first Monday in June next, and at the same time every second year thereafter, make out and deliver to the assessor of each county an abstract containing a description of each tract of land situated in his county, with the name of the owner, if known, and the number of acres or quantity of land contained therein, as the same shall appear from the books of his office, and he shall commence the same in the lowest number in township and range in his county, and in the northeast corner in each township, and shall proceed numerically with all the sections, townships, and ranges in his county first, setting down all the sub-divisions of each section as they belong to different individuals, or the whole section together, if owned by one person and not divided on account of parcels being of different value. *Act March 28, 1887, sec. 35.*

Sec. 147. It shall be the duty of the county clerks of the several counties in this state, to furnish annually the assessors of their respective counties with the necessary blank lists for the assessment of personal property as now required by sections 44, 48 and 49.

Sec. 148. The expenses of furnishing the lists provided for in the preceding section shall be allowed and paid by the county court as is now provided by law for payment of county ordinary expenses. *Act April 9, 1891.*

Sec. 149. Lands of the United States or of the state, or lands otherwise exempt from taxation, shall be entered upon such abstract in the name of the owner.

Sec. 150. In case of real estate situate in any city or town, such clerk of the county shall proceed according to the plan or plat thereof, commencing with the lowest number of the block and lot or other sub-division, and proceed numerically with all the lots in a block, and all the blocks in a city or town, until completed, but no failure to observe any of these requirements shall be held to vitiate any assessment if the land be so described as to be identified.

Sec. 151. To facilitate the assessment and collection of taxes, the county court of each county shall, if not already done, procure and keep a land book or books of maps of all the townships or fractional townships in the county, which book shall be well bound, and shall be deposited in the office of the clerk of the county court, and shall also procure a list of the lands owned by the United States and by this state in their respective counties.

Sec. 152. No allowance shall be made to the clerk of the county court for making such abstract, unless such abstract embraces every acre of land situate in his county as shown by the maps of the townships in his county, if there be such. *Act March 31, 1883, sec. 85.*

WHEN TO ABSTRACT REAL PROPERTY TO THE AUDITOR.

Sec. 153. The clerks of the county courts shall, on or before the second Monday in December next, and every second year thereafter, make out and transmit to the auditor of state an abstract of the real property in each township in his county, in which he shall set forth:

First. The number of acres exclusive of town or city lots returned by the assessor, of his county, with such additions as may have been made thereto.

Second. The aggregate value of such real property, other than town or city lots, as returned by the assessor of his county, inclusive of such additions as shall have been made thereto.

Third. The number and value of all city and town lots. *Act March 28, 1887, sec. 36.*

TAX-BOOKS AND EXTENSION OF TAXES.

Sec. 154. The clerk of the county court shall make out in books prepared for that purpose, in such manner as the auditor of state shall prescribe, a complete list or schedule of all the taxable property in his county, and the value thereof, as equalized, and arranged in the following form:

Each separate tract of real property in each congressional township in his county, other than town or city property, shall be contained in a line, or lines, opposite the names of owner or owners, arranged in numerical order.

Each separate lot or tract of real property in each city or town shall be set down in a line, or lines, opposite the names of the owner or owners, arranged in numerical order.

The aggregate value of personal property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, of each person, company or corporation, within each congressional township, shall be placed in a column opposite the name of the owner, person, company or corporation, in whose name the same is listed; the names of the persons in each school district who are not residents of any incorporated town, city or village shall be placed in alphabetical order in one list, and the names of the persons who are residents of any incorporated town, village or city shall be entered in another list in alphabetical order. *Act March 31, 1883, sec. 87.*

The clerk shall make proper entries to show whether any particular taxpayer is of the white or colored race, or a corporation. *Act April 19, 1895.*

Sec. 155. The county clerks of the counties in the state having two judicial districts shall prepare in the manner now prescribed by law a set of tax-books for each district; and the law governing the preparation, use and care of the said set of tax-books, shall be the same as the law now is regulating tax-books. *Act April 4, 1887.*

Sec. 156. The clerk of the county court shall, after receiving statements of the rates and sums of money to be levied for the current year from the auditor of state, and from such other officers and authorities as shall be legally empowered to determine the rates or amount of taxes to be levied for the various purposes authorized by law, forthwith determine the sums to be levied upon each tract or lot of real property in his county, adding the taxes of any previous year or years that may have been omitted, and upon

the amount of personal property, moneys and credits listed in his county in the name of each person, company or corporation, which shall be assessed equally on all real and personal property subject to such taxes.

Sec. 157. It shall be the duty of the county clerk to add each tax-book delivered to the collector, making the separate columns of values when added together amount to the sum of the column of total values when added up; and at the end of the tax-book to recapitulate the additions of each page, so as to make the same prove itself to be correct, according to the form to be furnished by the auditor.

Sec. 158. In all cases where any clerk of the county court, by inadvertence or mistake, shall have in any year omitted or shall hereafter omit to enter on the books of his county any lands or lots, or parts of lots, situate in his county subject to taxation, it shall be his duty to enter the same on the tax-books of the next succeeding year, and to add to the taxes of the current year the simple taxes of each and every preceding year in which such lands or lots shall have so escaped taxation.

Sec. 159. When for any cause the taxes in any county, for any year, shall not be collected, the same shall be charged on the tax-books for the next year and collected by the same officers and in the same manner as the taxes of that year.

Sec. 160. In all cases where practicable, and the land is owned by one person, or one or more persons jointly, description of lands, both on the tax-books and delinquent lists, shall be in tracts not less than one hundred and sixty acres.

Sec. 161. The clerk of the county court shall mark opposite every tract, town or city lot that may have been heretofore forfeited to the state for the non-payment of taxes the word "forfeited," and on such tract, town or city lot there shall not be charged any taxes unless the commissioner of state lands shall officially advise such clerk of the county court that the same is or has become subject to taxation, and in that event the same taxes shall be charged and collected thereon as are or may be allowed by law. The several assessors in the several counties shall assess all the lands or lots, or parts thereof, that may appear on the plats or lists furnished them, and if any clerk of the county court shall have lost, or if the records of his office shall not contain, a list of the lands forfeited to the state within his county,

he shall certify that fact to the commissioner of state lands and said commissioner of state lands shall forthwith furnish said clerk with such list. *Act March 31, 1883, secs. 88-93.*

Sec. 162. That hereafter the county clerk shall furnish the collector of taxes, thirty days before the collector shall begin to collect taxes, with a complete list of all delinquent lands in the county, showing the names of the owners at the time same was forfeited, and describing the lands accurately. It is hereby made the duty of the collector to post up in three conspicuous places at each collecting precinct, a printed copy of said delinquent list of lands. It is hereby made the duty of said collector to notify each taxpayer who desires to pay taxes on lands heretofore forfeited to the state, through mistake or otherwise, of said forfeiture. That this act shall not repeal any law on this subject and that this act shall take effect from and after its passage. *Act May 8, 1899.*

Sec. 163. The clerk of the county court of each county shall, on or before the first Monday in January in each year, make out and deliver the tax-books of his county to the collector, with his (ee) warrant thereunto attached, under his hand and the seal of his office, authorizing said collector to collect such taxes. The collector shall give duplicate receipts for the tax-books, in which the amount of the different taxes shall be separately stated, and the county clerk shall forward one of said receipts to the auditor of state. *Act March 28, 1887, sec. 37.*

(ee) Collector's warrant may be in the following form:

THE STATE OF ARKANSAS,

To the collector of ——— county. Greeting:

You are hereby authorized and commanded to collect of the several persons named in the annexed tax-book of ——— county, for the year 18—, the *per capita* tax, and the tax on lands, personal property, money and credits wherewith each stands assessed; and if, after the time allowed by law for the payment of such taxes, any shall remain unpaid, then you are commanded to levy and make such unpaid *per capita* tax, and tax on personal property, money and credits, with costs, out of the goods and chattels of the persons charged therewith, and the taxes unpaid on real property out of such real property, in the manner and within the time required by law.

And you are further commanded to account and pay to the proper officers the amounts by you collected, in the manner and within the time required by law.

In testimony whereof, I, ———, clerk of the county court of ——— county, have hereto set my hand and the seal of said court, this, the ——— day of ———, 18—. ———, Clerk.

See *Sanders v. Simmons*, 30—277.

Warrant directed to the sheriff instead of collector is not invalid when sheriff is also collector. *Keith v. Freeman*, 43—296.

Sec. 164. The tax-books delivered to the collector shall be a public record, and at the expiration of his term of office they shall be delivered to and deposited in the office of the county clerk, there to be preserved as other records of the county. *Act March 31, 1883, sec. 95.*

Sec. 165. The clerk of the county court shall make out and transmit to the auditor of state on or before the first Monday in January, annually, a statement of the aggregate value of the taxable property in his county, and of the total amount of taxes for all purposes assessed thereon for that year, and at the same time he shall make out and transmit to the auditor of state an abstract of the number and value of each of the enumerated articles, the value of merchandise and of manufacturing stock, and the value of other personal property, moneys, credits, investments in bonds, stock, joint stock companies or otherwise, and the value of all other personal property, as returned by the assessor, or as fixed by the county board of equalization. Such abstract shall be made out in such form as the auditor shall prescribe. *Act March 28, 1887, sec. 38.*

Sec. 166. If any person required to list property for taxation shall have been prevented by sickness or absence from giving to the assessor the list of such property, as by this chapter prescribed, such person, or his agent having charge of such property, may, at any time before the making out of the tax-books by the clerk of the county court, make out and deliver to the assessor of the county a statement of the same, as required by this chapter, and the assessor shall, in such case, make an entry thereof in the returns of the proper city, town, ward or school district, and correct the item or items in said return made by him, as the case may require, but no such statement shall be received by the assessor from any person who shall have refused or neglected to make oath to his statement when required by the assessor under the provisions of this chapter, nor from any person unless he shall have first made and filed with the clerk of the county court an affidavit that the person required to list the same was absent from his county without design to avoid listing his property, or was prevented by sickness from giving to the assessor the required statement when called upon for that purpose.

Sec. 167. The clerk of the county court shall, from time to time, correct any errors which he may discover in the names of the owners, in the description or quantity of any tract or lot contained in the list of real property

in his county, but in no case shall he make any reduction in the valuation of any tract or lot of real property, except such as shall have been ordered by the county board of equalization in conformity with the provisions of this chapter.

AUDITOR'S DUTY.

Sec. 168. The auditor of state shall, from time to time, prepare and transmit to the several clerks of the county courts such assessor's blank-books and instructions as shall by law be necessary to carry into effect the provisions of this chapter. The expense of procuring such assessor's blank-books as are required by the provisions of this chapter shall be paid out of the state treasury upon the warrant of the auditor. *Act March 31, 1883, secs. 97-99, as amended by Act of April 9, 1891.*

Sec. 169. The auditor shall, on or before the first Monday in October, annually, give notice to such clerks of the county courts of the rates per centum required by the general assembly to be levied for the payment of principal and interest of the public debt, for the support of common schools, for defraying the expenses of the state government, and for such other purposes as shall be prescribed by law, which rates of per centum shall be by the county clerks levied upon the taxable property contained in the tax-books of their respective counties. *Act March 28, 1887, sec. 39.*

LIEN FOR TAXES—WHEN ATTACHES.

Sec. 170. Taxes assessed upon real and personal property shall bind the same and be entitled to preferences over all judgments, executions, incumbrances or liens whensoever created, and all taxes assessed shall be a lien upon and bind the property assessed from the first Monday in June to the year in which the assessment shall be made, and shall continue until such taxes, with any penalty that may accrue thereon, shall be paid; *provided*, as between grantor and grantee said lien shall not attach until the first Monday in December in each year (ff). *Act March 28, 1887, sec. 40.*

(ff) See *Crowell v. Packard*, 35—348.

Taxes are a lien on personal property and follow it into whosoever hands it goes. *Bridewell v. Morton*, 46—73.

But the lien only extends to that particular class. *Ib.*

Agents' lien for taxes, see *Woodall v. Delatour*, 43—521.

Sec. 171. No property shall be exempt from sale or distress for taxes due thereon.

Sec. 172. It shall not be necessary to the validity of an assessment or of a sale of land for taxes that it be assessed to its true owner, but the taxes shall be a charge upon the real and personal property taxed, and, when sold, shall vest the title in the purchaser without regard to who owned the land or other property when assessed or when sold, and the personal property of any deceased person shall be liable in the hands of any executor or administrator for any tax due on the same by any testator or intestate.

COLLECTOR.

Sec. 173. The sheriff of each county shall be, *ex-officio*, collector of all taxes of his county until otherwise provided (gg), and, after giving bond, as hereinafter prescribed in this chapter, and upon receiving the tax-books of his county, he shall proceed to collect the same according to law.

Sec. 174. Each collector may appoint one or more deputies to assist him in the collection of taxes, and shall take such bond and security from the person appointed as he deems necessary for his indemnity, and shall in all cases be liable for the proceedings and misconduct of his deputies.

Sec. 175. Each sheriff, before entering upon his duties as collector of taxes, shall give bond and security (hh) to the state, which bond shall be in duplicate and approved by the county court, (ii) or the judge thereof in vacation; but any person may, when he deems the security on said bond insufficient, appeal to the circuit court of the proper county, if in session, if not, to the circuit judge in vacation, from the order of the county court, or act of the county judge in vacation, approving such bond, and if, upon such appeal, the court or judge finds the bond to be sufficient, such court or judge shall approve it, but if, upon such appeal, it is found to be insufficient, the court or judge shall order a new bond, or additional security to be given, as may be deemed proper and right, and the same shall be subject to the approval of said circuit judge or court. *Act March 9, 1899.*

Sec. 176. Said collector's bond shall be conditioned for the faithful performance of the duties of his office, and for well and truly accounting for

(gg) See *Falconer v. Shores*, 37—386.

(hh) See SECS. 5403, 5404.

(ii) See *Bosely v. Woodruff County Court*, 28—306.

and paying over all moneys collected by him by virtue of his office; and his term of office as collector shall not expire until his successor is qualified. *Act March 31, 1883, sec. 101-102.*

Sec. 177. The bond of the collector shall be approved as prescribed in this chapter, and shall be in amount greater by one-fourth than the aggregate amount of taxes to be collected by such collector, one copy of which shall be forwarded by the clerk of the county court to the auditor of state, the other filed with the recorder of the county, to be by him recorded. *Act March 31, 1885.*

Sec. 178. If the sheriff of any county should fail to give the collector's bond as herein provided before the first Monday in December of each year, the clerk of the county court shall immediately notify the governor, and some competent person having the requisite qualifications shall be appointed by the governor to perform the duties of collector, and the persons so appointed shall in all things comply with the provisions of the law regulating and governing collectors, and when so appointed, full faith and credit shall be given to all his acts as such (jj). *Act February 9, 1893.*

Sec. 179. The person so appointed collector of revenue of such county shall qualify and give the bond required by law within ten days after he is notified of his appointment. If he should fail to give such bond, the governor shall appoint some other person.

Sec. 180. The person so appointed and qualifying, and giving such bond, shall possess all the powers and be subject to the provisions of law in regard to the duties of the office of collector of revenue as apply to other cases. He shall hold the office until the next general election, and until his successor is elected and qualified. *Act February 25, 1875, secs. 1 and 2.*

Sec. 181. In the event of the death, removal or disability of the person appointed under the preceding sections to perform the duties of collector, the clerk of the county court shall immediately inform the governor, who shall appoint some competent person having the requisite qualifications under the constitution and laws of this state, who shall in all things comply with the provisions of the laws regulating and governing collectors, and when so appointed, full faith and credit shall be given to his acts as such.

(jj) See *Falconer v. Shores*, 37—386; *Alston v. Falconer*, 42—114; *Elsley v. Falconer*, *Id.*, 117.

And if from any cause there shall be no collector of taxes in any county of this state, after the expiration of fifteen days from the time fixed by law for such collection to commence, in any year, any taxpayer of such county, resident or non-resident, may at any time before the time fixed by law for the regular collections to close, pay the amount of the state taxes, and of the general county taxes, poll taxes, district school taxes, taxes levied to pay interest on bonds issued, or to be issued, by a county, city or town in compromise of indebtedness existing at the adoption of the constitution of 1874, road taxes, levee taxes and municipal taxes directly into the state treasury, and the receipt of the treasurer of the state therefor shall be as effective for all purposes as if made by a county collector. *Provided*, it shall be the duty of the county clerk, in the event of such vacancy in the office of collector for fifteen days after the time fixed by law for the collection of taxes to commence, to deliver to the treasurer of the state the regular tax-books made for the collector for the collection of the taxes above specified as due and payable, which shall be receipted for by the treasurer of the state in the same manner as required by law of collectors, and the collection of the above specified taxes in such county shall proceed by the treasurer of the state, or his special deputy, in all respects, save that the treasurer of state shall be responsible upon his official bond as treasurer of state for such collection, as is now or may hereafter be required by law when made by the tax collectors, including settlement with the state, county, school district, local boards, cities and towns, publication and return of delinquent lists, accrual of penalties, and distraint and sale for taxes as may be hereby collected, and the special deputy of the treasurer of state shall receive the same compensation for making such collections, and shall settle with and pay over to the same officers, state and county, the revenue due them, respectively, in the same manner as is now or may hereafter be required by law of collectors of revenue. *Act April 6, 1889.*

Sec. 182. In case of vacancy in the office of collector from any cause, except as mentioned in sections 178 and 181, if such vacancy should occur more than six months before the next general election, such vacancy shall be filled by special election, and if such vacancy shall occur less than six months before the next general election, such vacancy shall be filled by ap-

pointment by the governor. The person so elected or appointed shall qualify within fifteen days after notice of his election or appointment.

Sec. 183. In case of failure of the sheriff to give bond as provided in section 178, or in case of vacancy, as provided in section 182, it shall be the duty of the clerk of the county court immediately to notify the governor of such failure or vacancy, as the case may be, affixing to such notice his certificate and seal of office.

Sec. 184. The governor may, by proclamation, extend the time "when the penalty shall attach for making distraint returning delinquent list, advertising and selling delinquent lands, making settlement and paying over the revenue, and for the performance of any other duty by the collectors," so that the taxpayer may have the same time to pay the taxes, and the collector have the same time to perform the duties of his office, as allowed by law in case such failure or vacancy had not occurred. The governor shall, in such proclamation, fix the time for the performance of the acts mentioned in this section; a copy thereof shall be filed in the office of the clerk of the county court, and recorded in the records of such court by the clerk. Such proclamation shall be published in some newspaper in such county for two weeks, if one be published therein, and all acts and duties performed in the time fixed in such proclamation shall be as valid and binding as if performed in the time fixed by the general law. *Act February 25, 1875, secs. 3-5.*

Sec. 185. Whenever any collector dies after he has received the tax-books for any year, and before he has collected the taxes charged therein, his legal representatives shall hand over at once to his successor, as soon as he is appointed and qualified, the tax-books, and pay over at once all moneys, less his commission, which have been collected by the deceased collector from all sources, and then in his hands.

Sec. 186. The new collector shall execute receipts in triplicate, to be attested by the clerk of the county court, for the tax-books so delivered, and showing the amount already collected upon the same, and the amount uncollected; also receipts in triplicate for the amount of taxes collected by the deceased collector from all sources, and paid over to him by the executor or administrator, one of each of which receipts shall be certified by the clerk to the auditor of state, who shall thereupon charge the new collector with the

balance of the state taxes due on the tax-book, and the amount paid over to him by the executor or administrator of the deceased collector; and another shall be filed with the county clerk, who shall thereupon charge the new collector with the balance of taxes due on the tax-books, and with the amount paid over by such executor or administrator, and the third shall be given to the executor or administrator of the deceased collector.

Sec. 187. Any collector who shall resign, or be removed or disqualified, shall pay over all moneys which may be in his hands due the state, county, city or town, or school district, to his successor in office, and take duplicate receipts therefor, one of which receipts shall be filed with the clerk of the county court, and the other retained by the collector, and the county clerk shall certify to the auditor of the state the amount of such receipt, and it shall be the duty of the collector charged therewith to pay the same into the treasury in the same manner and at the same time as regular revenues are to be paid.

Sec. 188. In the receipt mentioned in section 187, it shall be specified particularly on what account the moneys mentioned were received, whether from taxes or from other sources. *Act March 31, 1883, secs. 107-110.*

NOTICE OF COLLECTION OF TAXES.

Sec. 189. The collectors shall cause printed notices to be posted in three public places in each township, town or city throughout the county, one of which shall be at the place of holding elections in such township, town or city, and published in some newspaper published in the county, if any there be, stating on what day the collector or his deputy will attend at the places of holding elections, in each township, town or city, which day shall not be prior to the first Monday in January of each year, but as soon thereafter as practicable, for the purpose of receiving taxes. The collector or his deputy shall attend, for the purpose aforesaid, on the day and at the place named in such notice, and thereafter shall attend at his office at the county seat from the tenth day of April of each year, to receive taxes from persons wishing to pay the same (kk). *Act March 28, 1887, sec. 41.*

FUNDS RECEIVABLE FOR TAXES.

Sec. 190. The tax levied to pay the interest on the public debt shall be collected in the United States currency and paid into the state treasury in the currency collected.

Sec. 191. The collector shall receive county warrants in payment of county taxes (ll) ; the orders or warrants that may be payable on presentation of any town, city or school district for their respective taxes, and the state treasurer's certificates of indebtedness, of date not prior to July 23, 1868, for state taxes, levied to defray the general expenses of the state (mm). *Provided*, this section shall not be so construed as to compel the acceptance of any order or warrant that by the laws of this state was required to be funded.

Sec. 192. The collector of revenue shall pay into the state and county treasury, in kind, all money collected by him, whether specie, United States paper currency, national bank notes, silver or gold certificates, warrants or scrip, as authorized by law to be received, and every collector or other officer who shall fail to comply with the provisions of this section shall be fined one hundred dollars for each violation, and be held liable on his official bond for the difference in value between the funds received and those paid, and shall not be eligible to hold any office of trust in this state (nn).

Sec. 193. Any collector of any county, city or town in this state who shall return any person, personal property or real estate delinquent, by whom or upon which taxes have been paid, or shall advertise for sale, offer to sell or sell any property, real or personal, upon which the taxes have been paid for the year for which the same shall be returned delinquent, advertised, offered for sale or sold, shall forfeit and pay to the owner of such property, or any other person interested therein, or who may be injured thereby, a sum equal to double the taxes, penalty and costs charged on said personal property or land, together with such actual damages as may have been sustained, and for any sum so recovered such officer and his sureties shall be liable on his official bond. *Act March 31, 1883, secs. 112-114.*

(ll) See *Daniel v. Askew*, 36—487; *Lusk v. Perkins*, 48—238; *Crudup v. Ramsey*, 54—168.

(mm) See *English v. Oliver*, 28—317.

(nn) See *Askew v. Columbia County*, 32—270.

Sec. 194. No collector or deputy collector shall, either directly or indirectly, contract for or purchase any orders or warrants issued by the county of which he is collector, or any state warrants, or town orders, or the orders or warrants of any city, town or other body politic for which he is the collector of taxes, at any discount whatever upon the sum due on such orders or warrants; and, if any collector or deputy collector, directly or indirectly, contracts for, purchases or procures any such orders or warrants at any discount whatever upon the sum for which the same are respectively issued, he shall not be allowed, on settlement, the amount of said warrants or orders, or any part thereof, and shall also forfeit the whole amount due on such warrants or orders and the sum of one hundred dollars for each and every breach of the provisions of this section, to be recovered in a civil action at the suit of the state for the use of the county; and the treasurer of the state, and every person or officer to whom the county collector of any county is required to return the state, county, city, town, village, school or road tax, is prohibited from receiving from any collector any warrants, orders or bonds in payment of taxes collected by him or his deputies, unless with said warrants, orders, or bonds, said collector shall file his affidavit with the treasurer of the state, or the person or officer entitled to receive said tax, stating therein that all such warrants, orders and bonds were received at their par value, and that he has faithfully performed his duties, as prescribed in this act; and whoever swears falsely in such affidavit shall be guilty of perjury, and, upon conviction, shall be imprisoned in the penitentiary for not less than one nor more than three years. *Act March 21, 1869, sec. 2.*

TAX RECEIPTS.

Sec. 195. The collector, whenever any taxes are paid, shall give the person paying the same a receipt therefor, dated, numbered and filled up, so as to show by whom, whether white or colored, on what, and amount of taxes paid, amount of land and personalty, rate per centum, at the foot of the receipts which receipt shall be prepared for the purpose, and, in case of land, distinctly specifying it as it is described on the tax-books, and such receipt may be in the following form, viz.:

TAX RECEIPT FOR 190—

[illegible]

Total valuation of real property as valued on tax books

Value of personal property as per tax books.....

Total valuation of real and personal property taxed.....\$

	Dollars	Cts.	
State Tax, $2\frac{1}{4}$ mills			REMARKS.—The holder of this receipt is requested to examine it thoroughly, and, should there be a mistake in it, return it immediately for correction.
Sinking fund Tax, $\frac{1}{4}$ mill, cur.			
General School Tax, 2 mills			
Pension, $\frac{3}{4}$ mill			
Capitol, $\frac{1}{2}$ mill, S. S.			
County General Tax, mills, C. S.			
Co. Debt Tax.....mills, O. C. S. or cur.			
District School Tax, S. S.			
Corporation Tax, cur.			
Assessors' penalty, S. S.			
Poll Tax (*)			
Total Tax			

COLLECTOR'S OFFICE.

§ _____

.....County, Arkansas,....., 190.....

Received of.....

..... Dollars

Taxes for the year 190... ..upon the property herein described, as charged upon the tax-books.

Sheriff and Ex-Officio Collector of Taxes for.....County, Arkansas.

(*) As to poll tax receipts, see Secs. 2605-2612.

Sec. 199. The collector shall, at the time such entry is made, enter upon the margin of the tax-book, opposite the property paid on, the page of the record book of tax receipts, and where such entry is made therein.

Sec. 200. Each collector shall also enter in said book, in immediate connection with said other entries, the amount of his payment of taxes to the state and county treasurers, respectively, with the date of such payments, so that it can be seen by reference to said book whether the payments made to the state and county treasurers embraced all he had collected, less his commissions. Said book shall at all times be subject to the inspection of any state or county officer, or of any citizen of the state.

Sec. 201. If any collector shall fail to keep such book, or to make the entries at the time and in the manner as in this act prescribed, or shall make any false entry therein, or shall refuse to permit any person entitled thereto to examine said book, or shall fail to preserve such book and deliver the same to the county clerk at the time herein prescribed, he shall be guilty of a misdemeanor, and, upon conviction, fined in any sum not more than five hundred dollars, and be removed from office.

Sec. 202. The expense of printing and binding said book shall be paid for out of the state treasury.

Sec. 203. The book of record of tax receipts by sections 196, 197, 198, 199 and 200, required to be kept by the collectors of the respective counties of this state, whether filled up or not, shall at the time of making his final settlement with the county clerk, as in this act prescribed, be delivered by the collector to the clerk of the county court, which shall be received and receipted for by such clerk, and by him preserved as a public record of his office, and said book shall become a public record of such county, and shall be evidence that the taxes have been paid by the respective persons upon the property and at the times as therein specified and entered. *Act March 31, 1883, secs. 115-117.*

COLLECTION BY DISTRAINT.

Sec. 204. At any time after the tenth day of April, in each year after such tax may be due, the collector shall distrain sufficient goods and chattels belonging to the person charged with taxes levied upon the personal property, to pay the taxes due upon the personal property of said person.

and a penalty of twenty-five per centum thereon (which penalty shall be collected by the collector and paid into the county school fund), and the costs that may accrue, and shall immediately proceed to advertise the same in three public places in the county, stating the time when, and the place where, said property shall be sold. If the taxes for which property is distrained, and costs which shall accrue thereon, are not paid before the day appointed for sale, which shall not be less than ten days after taking such property, the collector shall proceed to sell the same at public vendue, or so much thereof as will be sufficient to pay said taxes and the cost of such distress and sale; *provided*, he shall not distrain any goods and chattels for taxes levied on real property, except as provided in section 4. *Act March 28, 1887, sec. 42.*

Sec. 205. If the tax upon personal property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, of any person, association or corporation, shall remain unpaid after the tenth day of April in any year, and the collector shall be unable to find any personal property of such person, association or corporation whereon to levy to make the taxes then due, he shall present such account for taxes to any person who may be indebted to such person, association or corporation, and demand the payment thereof, and the person to whom the same shall be presented shall pay over to the collector the amount of such taxes, if so much he owe, and take the collector's receipt therefor, which shall be deemed and taken in all courts of this state a payment on his indebtedness to the full amount expressed on the collector's receipt. If such person should fail or refuse, on demand, to pay over the amount of such tax, if so much he owe, to the collector, said collector shall file a statement of the amount of such tax with the person so refusing, which shall operate as a garnishment upon the person so served, and the collector shall thereupon proceed to collect such taxes in the manner fixed by law in cases of garnishment. *Provided*, no person shall be compelled to pay any debt before the same may be due, nor a greater amount than he may be owing such person or corporation or association. The cost of garnishment shall be paid by the party refusing to pay such taxes when so requested. *Act March 28, 1887, sec. 43.*

Sec. 206. The collector shall be allowed the same fees for making distress and sale of goods and chattels for the payment of taxes which are

now or may hereafter be allowed by law to sheriffs for making levy and sale of property on execution, traveling fees to be computed at fifty cents for each delinquent visited, without regard to the distance traveled, and the collector is hereby authorized and empowered to levy on, sell the goods and chattels of the person liable for taxes herein provided, in the same manner and under the same restriction as goods and chattels are required to be levied and sold under execution on judgment at law, when not inconsistent with the provisions of this act. *Provided*, no goods and chattels of any person shall be exempt from such levy and sale. *Act March 1, 1887.*

Sec. 207. Said collector shall be allowed commission for collecting the revenue as follows: For the first ten thousand dollars collected, five per cent. in kind; for all sums over ten thousand dollars and under twenty thousand dollars collected, three per cent. in kind; for all sums over twenty thousand dollars collected, two per cent. in kind.

Sec. 208. Whenever any collector shall have reason to believe that any person charged with taxes (other than those upon real estate) is about to remove from the county without paying his taxes, he may at any time levy and collect such taxes, with costs by distress and sale. *Act March 31, 1883, secs. 120, 121.*

DELINQUENT LISTS OF PERSONAL PROPERTY, ETC.

Sec. 209. The collector shall within seventy days after the tenth day of April in each year make out and furnish to the county clerk a report of all delinquent and insolvent taxpayers in his county, with the amount due from each, which report shall be verified by the written affidavit of the collector to the effect that he has in person, or by his deputy, made a legal demand for taxes of all delinquent taxpayers found in his county by going to their places of abode or business and searching for something to seize and sell for taxes; that the taxpayers mentioned in said report have failed to pay their taxes and have no effects known to him which can be made to pay the same, and that he has made diligent inquiry after such of said delinquents as have not been found and that he has been unable to find them in his county and that they have no effects known to him which can be made to pay their taxes. Separate lists of such delinquents shall be made for each school district and for each city or town and the county clerk shall

forthwith cause said delinquent list to be published weekly for two weeks in some newspaper of the county if any be published therein, if not, in some newspaper nearest to said county having a circulation in such county. He shall also keep posted up in or about his office such delinquent lists for one year. The county clerk for furnishing said delinquent list, shall be allowed two cents per name and the party publishing the same shall be allowed five cents per name, to be paid in the same manner as is now provided by law for furnishing and printing the lists of delinquent lands. *Act April 13, 1903.*

Sec. 210. The county court shall proceed to examine such report so made as aforesaid, and shall allow to the collector a credit for such of the taxes so reported insolvent or delinquent, as satisfactorily appears to said court to remain uncollected without default of the collector, and no more; and a list of such allowance shall be made out by the county clerk and certified and transmitted to the auditor of state within ten days after the same is approved by the county court or county judge, and the same shall be credited to the collector in his settlement with the auditor of state and with the county clerk.

Sec. 211. In the event the county court shall not meet at the time of the filing of such report, or within ten days thereafter, the collector may present such report to the county judge, who shall proceed to examine the same and make such allowance as to him satisfactorily appears to remain uncollected without any default of the collector, and shall certify the same under his hand and seal, and such allowance shall be entered of record by the clerk, and the same proceedings shall be had thereon as if the same had been done by the county court.

Sec. 212. Notwithstanding such allowance, the tax collector, if possible, shall collect the taxes of such insolvent and delinquent taxpayers; he shall retain a copy of the list reported by him for six months, and which shall be charged to him by the county clerk, and whenever he can find any personal property belonging to such person, he shall distrain and sell the same, on ten days' notice, to the highest bidder for cash, and shall pay over the same as other taxes collected, and the auditor of state, upon every settlement with the collector, shall require of him a report, under oath, whether he has collected taxes from any, and of which, of said delinquent taxpayers.

Sec. 213. The county court, or county judge, shall not allow to the

collector a credit for the insolvent and delinquent list he reports, unless the same is verified by the oath of the collector, as prescribed in section 209, nor shall the same be allowed to the collector merely because he presents it duly sworn to. But the county court, or county judge, shall carefully examine each school district and incorporated city or town list, as reported, and shall scrutinize each name and amount reported insolvent, and avail himself of any information by witnesses to test the accuracy of said list, and shall not allow to the collector credit for the taxes of any delinquent who may be ascertained to have any personal property by a sale of which to make such taxes, and all of said lists for which the collector shall not be allowed as a credit shall stand as a charge against such collector.

Sec. 214. Each collector, in making returns of the delinquent list of personal property to the clerk of the county court, shall note on the margin of said returns the county in this state to which any delinquent taxpayer may have removed or resides in, with the date of his removal, if he is able to ascertain such fact. The clerk of the county court shall immediately forward to the clerk of any county of this state to which any delinquent taxpayer has removed or resides in a certified statement or account of the taxes so assessed and not paid, which statement or account shall specify the value of the property on which such taxes were levied, and amount of the taxes levied thereon, with the penalty and cost, and such collector shall proceed to collect the same, in the same manner and with like authority as herein prescribed for collecting delinquent taxes upon personal property, and shall make return thereof to the collector of the proper county.

Sec. 215. The collector may collect at any time all delinquent personal property tax in his county, or that may be sent from another county, by the sale of property or otherwise, and shall make returns of the amount so collected to the proper counties and officers.

Sec. 216. The delinquent list, together with the fees allowed thereon to any collector, shall be delivered to his successor, and the same shall be returned to the clerk of the county court by the outgoing collector for that purpose, and so on until the whole shall be collected. *Provided*, after said list has been returned two years, the county court shall have power to strike off all names of persons who, in the opinion of such court, own no property

out of which the taxes due on said list can be made by sale or otherwise. *Act March 31, 1883, secs. 122-126.*

Sec. 217. The collector shall, in the manner required by section 209 make out and return a list stating the amount due from each delinquent officer required by law to pay to the collector the amount of revenue, penalties and other sums by such officer received (oo). *Rev. Stat., chap. 128, sec. 65.*

DELINQUENT LIST OF REAL ESTATE.

Sec. 218. The collector shall, by the second Monday in May in each year (pp), file with the clerk of the county court a list or lists of all such taxes levied on real estate as such collector has been unable to collect, therein describing the land or city or town lots on which said delinquent taxes are charged as the same described on the tax-books, and the collector shall attach thereto his affidavit to the correctness of such list. The clerk of the county court shall carefully scrutinize said list and compare the same with the tax-book and record of tax receipts, and shall strike from said list any tract of land, city or town lot upon which the taxes shall have been paid, or which does not appear to have been entered upon the tax-book, or that shall appear from the tax-book to be exempt from taxation. *Act March 28, 1887, sec. 45.*

Sec. 219. No taxes returned delinquent, as aforesaid, shall be paid into the state treasury, except by the collector. It shall be the duty of the clerk of the county court to add a penalty of twenty-five per centum upon all taxes so returned delinquent, which penalty shall be collected in the manner provided for the collection of delinquent taxes. *Act March 31, 1883, sec. 127.*

Sec. 220. The clerks of the several counties of this state shall cause the list of the delinquent lands in their respective counties, as corrected by them, to be published weekly for two weeks (qq), between the second Monday in May and the second Monday in June in each year. Such list of delinquent lands shall be published in some newspaper of the county, if any be published therein; if not, in some newspaper published nearest to said

(oo) See SECS. 6618, 6619, 6622.

(pp) See *Hickman v. Kempner*, 35—505.

(qq) See *Pennell v. Monroe*, 30—661.

county, having a circulation in such county (rr). He shall also keep posted up in or about his office such delinquent list for one year. *Act March 28, 1887, sec. 46.*

Sec. 221. There shall be attached to said list a notice that said delinquent lands will be sold by the county collector; said notice shall be in substance as follows (ss):

DELINQUENT TAX SALES.

The lands and lots and parts of lots returned delinquent in _____ county for the year 18—, together with the taxes and penalty charged thereon agreeably to law, are contained and described in the following list, viz.: [Here insert the list with the names of the owners, as the same are described on said list as taken from the tax-book.] And notice is hereby given that said several tracts, lots or parts of lots, or so much thereof as may be necessary to pay the taxes, penalty and cost due thereon, will be sold by the county collector, at the courthouse in said county, on the second Monday in June next, unless the said taxes, penalty and costs be paid before that time; and that the sale will be continued from day to day, until the said tracts, lots and parts of lots be sold.

[Date of notice.]

_____,
Clerk _____ County.

The clerk of the county court shall record said list and notice in a book to be by him kept for the purpose, and shall certify at the foot of said record, stating in what newspaper said list was published, and the date of publication, and for what length of time the same was published before the second Monday in June then next ensuing, and such record, so certified, shall be evidence of the facts in said list and certificate contained (tt). *Act March 28, 1887, sec. 47.*

(rr) This section intends the first insertion to be two full weeks before the day of sale. *Townsend v. Martin*, 55—192; *Martin v. McDiarmid*, 55—213.

(ss) See *Thweatt v. Black*, 30—732.

(tt) The record alone can be looked to as evidence of the fact of publication. *Martin v. Allard*, 55—218.

When clerk failed to certify publication of the notice, the sale is void. *Ib.*

SALE OF DELINQUENT LANDS.

Sec. 222. The collector (uu) shall attend at the court house in his county on the second Monday in June next after the publication of the list, as herein prescribed (vv), and shall, then and there, between the hours of ten o'clock in the forenoon and five o'clock in the afternoon, proceed to offer for sale each tract of land, city or town lot, for taxes, penalty and costs thereon, and the person offering at such the amount of taxes, penalty and costs due on the whole tract or lot for the smallest sub-division thereof shall be the purchaser thereof; and if no person shall offer or bid the amount of taxes, penalty and costs due on said tract, lot or part thereof, then the collector shall bid the same off in the name of the State of Arkansas, bidding therefor the amount of taxes, penalty and costs due thereon; and, when less than the whole of the tract of land or lot is sold, the part sold shall be laid off in a square in the northeast corner. *Act March 28, 1887, sec. 48.*

Sec. 223. The collector shall continue said sale from day to day until each tract of land, city or town lot, or part thereof, shall be sold. He shall be allowed ten cents for each tract of land sold.

Sec. 224. The person purchasing such tract, lot, or part thereof, shall forthwith pay the collector the amount of taxes, penalty and costs charged thereon, and, on failure so to do, the collector shall immediately offer said tract of land, town or city lot, or part thereof, again for sale, in the same manner as if no such sale had been made, and, in case there should be no bid when again offered, the collector shall bid the same off to the state, as prescribed in this chapter; upon such tract of land, town or city lot, or part thereof, the collector shall not consider the bid of the person who bid the same off in the first instance and failed to pay therefor.

Sec. 225. When the collector shall bid the amount of taxes, penalty and costs for the state, as hereinbefore provided, the state shall not be required to pay the same to the collector.

Sec. 226. When the collector or his deputy, or the clerk of the county court or his deputy, shall, neither directly or indirectly, be con-

(uu) A deputy sheriff can not hold the sale for the collector. *Crowell v. Barham*, 57—195.

(vv) See *Vernon v. Nelson*, 33—748; *Allen v. Ozark Land Co.*, 55—549.

cerned in the purchase of any tract of land, town or city lot sold for the payment of taxes (ww).

Sec. 227. The clerk of the county court (xx) shall attend all such sales of delinquent lands and lots, town or city lots, or parts thereof, made by the collector of the county, and shall make a record thereof in a substantial book, therein describing the several tracts of land, town or city lots, or parts thereof, as the same shall be described in the advertisement aforesaid, stating what part of each tract of land, town or city lot was sold, and the amount of taxes, penalty and costs due thereon, and to whom sold; and he shall record in a separate book, to be kept for that purpose, each tract of land, town or city lot sold to the state, together with the taxes, penalty and cost due thereon. Immediately after such sale the clerk of the county court shall make out and certify to the auditor of state a copy of each of said sale lists as recorded in said book, together with an abstract thereof showing the total valuation of the property contained in each, and the total amount of the taxes, penalty and costs thereon in each (yy). *Act March 31, 1883, secs. 129-133.*

Sec. 228. The collector shall make out and deliver to the purchaser of any land, or town or city lot, or parts thereof sold for delinquent taxes as aforesaid, a certificate of purchase, for which the collector shall receive twenty-five cents to be taxed as costs of sale therein, describing the lands or lots as the same were described in the notice of sale, stating therein what part of such tract of land, town or city lot was sold, and the amount of taxes, penalty and costs paid therefor. Such certificate shall be assignable in law, and an assignment shall vest in the assignee or his legal representative all the right title and estate of the original purchaser (zz). *Act April 7, 1893.*

Sec. 229. The clerk of the county court shall, immediately after the sale, transfer upon the tax-books all lands sold for taxes to the name of the purchaser, charging him therefor the sum of ten cents for each tract, which shall be charged and paid as part of the cost of sale.

(ww) See *Hare v. Carnall*, 39—196.

(xx) See *Cole v. Moore*, 34—582.

(yy) See *Keith v. Freeman*, 43—296.

(zz) See *Bird v. Jones*, 37—195; *Bagley v. Schoppach*, 43—375; s. c., 47—72; *Goodrun v. Ayers*, 56—93.

REDEMPTION OF LAND SOLD FOR TAXES.

Sec. 230. All lands, town or city lots, or parts thereof, which may hereafter be sold for taxes at delinquent sale, under the laws of this state, may be redeemed at any time within two years from and after the sale thereof (aaa) ; and all lands, city or town lots belonging to insane persons, minors or persons in confinement, and which have been or may hereafter be, sold for taxes, may be redeemed within two years from and after the expiration of such disability (bbb).

Sec. 231. Where any tract or portion of land, town or city lot, or any part thereof, shall be sold for taxes, and afterward redeemed, it shall be the duty of the clerk of the county court to insert a minute of such redemption on the record of lands sold for taxes, the date thereof, and by whom made, and sign the same officially.

Sec. 232. All applications for the redemption of lands or town or city lots sold to the state or to individuals for taxes shall be made to the clerk of the county court of the county in which the land or town or city lot was sold. *Act March 31, 1883, secs. 135-138.*

Sec. 233. Any owner, or his agent, or any other person for the owner (ccc) desiring to redeem any land, town or city lot or part thereof sold for taxes, under or by virtue of any law of this state, may, within the time limited by law for such redemption, deposit with the county treasurer, upon the certificate of the clerk of the county court describing such land, town or city lot, an amount of money equal to the taxes for which such land, or town or city lot, was sold, together with penalty and cost and the taxes subsequently paid thereon by such person, or those claiming under him, with interest at the rate of ten per centum per annum, on the whole amount so paid, and the county treasurer shall, upon the payment of said sum, within ten days

(aaa) See *Hare v. Carnall*, 39—196; *Thweatt v. Black*, 30—732.

(bbb) See *Carroll v. Johnson*, 41—59. The right of redemption is not personal to a minor, but may be enforced by his vendee. *Neil v. Kozier*, 49—551.

See *Sims v. Cumby*, 53—418.

The minor's right to redeem is not an estate, but only a statutory privilege to defeat the tax title in a limited time. *Bender v. Bean*, 52—132.

See *Keith v. Freeman*, 43—296.

(ccc) See *Merrick v. Hutt*, 15—341; *Woodward v. Campbell*, 39—580; *Sanders v. Ellis*, 42—215.

thereafter, notify the purchaser that said sum is in the treasury and subject to his order (ddd). *Act February 21, 1893.*

Sec. 234. Upon the presentation of such certificate of the clerk of the county court to the county treasurer, and upon the payment of the money to the treasurer as aforesaid, he shall give the person making such payment duplicate receipts therefor, describing the land, town or city lot, or part thereof, as the same is described in or upon the certificate of the clerk of the county court aforesaid, one of which receipts shall be registered by the treasurer and immediately filed with the clerk of the county court by the person receiving the same, and thereupon the clerk of the county court shall forthwith cancel the sale and transfer of such land, city or town lot, and such receipt when so filed shall operate as an extinguishment of all rights, either in law or equity, conferred in any way or manner by such sale.

Sec. 235. In all cases where such deposit shall be made within two years from the time of the sale of such lands, town or city lots, or any part thereof, for delinquent taxes, the clerk of the county court shall, at the request of the person presenting the receipt of the county treasurer for such deposit, note such fact on the back of said certificate, and sign his name thereto. When any tract, town or city lot, or any portion thereof, is thus redeemed, or any deposit with the county treasurer is thus made, it shall be the duty of the clerk of the county court to note such redemption or deposit, the date thereof, and by whom made, on his record of tax sales, and sign his name officially thereto.

Sec. 236. When any joint tenants, tenants in common, or coparceners, shall be entitled to redeem any land or lot, or part thereof, sold for taxes, and any person so entitled shall refuse or neglect to join in the application for the certificate of redemption, or from any cause can not be joined in such application, the clerk of the county court may entertain the application of any one of such persons, or as many as shall join therein, and may make a certificate for the redemption of such portion of said land or lot, or part thereof, as the person making such application shall be entitled to redeem.

(ddd) The payment herein referred to must be in coin, or treasury notes made legal tender by act of congress. *Murphy v. Smith*, 49—37.

See *Bender v. Bean*, 52—132.

See Secs. 4641 to 4655, inclusive.

Sec. 237. Lands sold to the state may be redeemed within two years after sale, subject to the same restrictions, conditions and regulations as hereinbefore described in relation to the redemption of lands sold for taxes, by the application to the clerk of the county court, and payment of the same amount and penalty hereinbefore mentioned, and the taxes which would have accrued thereon if such land or lot had been continued on the tax-books and the taxes extended to the county treasurer, and the amount due the state shall be paid by the county treasurer to the county collector, who shall give duplicate receipts therefor, stating in said receipts the amount belonging to each fund separately, one of which shall be immediately forwarded by the treasurer to the auditor, and the other to the clerk of the county court, who shall make quarterly reports to the auditor of the amounts due the state on account of such redemption of any land sold to the state as herein provided. It shall be the duty of the clerk of the county court to make a note thereof on the record book of such sale provided for in this act.

TAX DEEDS.

Sec. 238. At any time after the lapse of two years from the time of sale of any tract or lot of land for taxes, if the same shall remain unredeemed, the clerk of the county court, on production of the certificate of purchase, shall execute and deliver to the purchaser, his heirs or assigns, a deed of conveyance for the tract or lot described in such certificate. In case the certificate of purchase has been assigned, the clerk of the county court shall briefly recite the fact in the deed. The deed so made by the clerk of the county court shall be acknowledged and recorded in the same manner that other deeds and conveyances of real estate are required to be acknowledged by the laws of this state, and shall be substantially in the following form, viz. (eee) :

Know all men by these presents, that, whereas, the following described property [here describe the land sold], situate in the county of —— and

(eee) See *Pettus v. Wallace*, 29—476; *Pack v. Crawford*, *Ib.*, 489; *Spain v. Johnson*, 31—314; *Jacks v. Dyer*, *Ib.*, 334; *Montgomery v. Birge*, *Ib.*, 491; *Crane v. Field*, 30—579.

As to what defects in description of the land assessed will render deed void, see *Hershey v. Thompson*, 50—484; *Kelly v. Salinger*, 53—132; *Cocks v. Simmons*, 55—104.

A tax deed which recites the sale in the body and for a gross sum of several sections of land, severally assessed, is void. *Cocks v. Simmons*, 55—104.

State of Arkansas, was subject to taxation for the year (or years) A. D. 18—; and, whereas, the taxes assessed on said real property for the year (or years) aforesaid remained due and unpaid at the date of the sale hereinafter named; and, whereas, the collector of the revenue of the said county did, on the ——— day of ———, A. D. 18—, by virtue of the authority in him vested by law, at the sale begun and publicly held on the second Monday in June, A. D. 18—, expose to public sale at the court house in the county aforesaid, in substantial conformity with all the requirements of the statutes in such cases made and provided, the real property above described, for the payment of taxes, penalty and cost then due and remaining unpaid on said property; and, whereas, at the time and place aforesaid, ——— ———, of the county of ——— and the state of ———, having offered to pay the sum of ——— dollars and ——— cents, being the whole amount of the taxes, penalty and costs then remaining due and unpaid on said property, for [describe], which was the least quantity bid for, and payment having been by him made to said collector, said property was stricken off to him at that price; and, whereas, the said ——— ——— did, on the ——— day of ———, A. D. 18—, duly assign the certificate of the sale of the property as aforesaid, and all his right, title and interest therein, to ——— ———, of the county of ——— and state of ———; and, whereas, two years have elapsed since the date of said sale, and said property has not been redeemed as provided for by law.

Now, therefore, I, ——— ———, clerk of the county court of the county aforesaid, in consideration of the said sum of money to the collector paid as aforesaid, and by virtue of the statutes in such cases made and provided, have granted, bargained and sold, and by these presents do grant, bargain and sell unto the said ——— ———, his heirs and assigns, the real property aforesaid, and more particularly described as follows: [Here describe as sold.] To have and to hold unto him, the said ——— ———, his heirs and assigns forever; subject, however, to all the rights of redemption provided by law.

In witness whereof, I, ——— ———, clerk of the county court as aforesaid, by virtue of the authority aforesaid, have hereunto subscribed my name, on this ——— day of ———, A. D. 18—.

Clerk of the County Court of ——— County, Arkansas.

STATE OF ARKANSAS, |

COUNTY OF ———. |

I hereby certify that, before me, ——— ———, in and for said county, personally appeared the above-named ——— ———, clerk of the county court of said county, personally known to me to be the clerk of the county court of said county at the date of the execution of the above and foregoing conveyance, and to be the identical person whose name is affixed to and who executed the above conveyance as clerk of the county court of said county, and acknowledged that he, as clerk of the county court of said county, had executed the same for the considerations, uses and purposes therein contained, and set forth and desired the same certified, which was done.

Given under my hand and seal, on this ——— day of ———, 18—.

—————

Sec. 239. The deed shall be signed by the clerk of the county court, in his official capacity, and acknowledged by him before some officer authorized by law to take acknowledgments of deeds, and, when substantially thus executed, shall vest in the purchaser all the right, title, interest and estate of the former owner in and to the lands conveyed (fff), and also all the right, title and claim of the state and county thereto; and shall be *prima facie* evidence (ggg) that all the prerequisites of the law were complied with by all the officers who had, or whose duty it was to have had, any part or action in any transaction relating to or affecting the title conveyed or purporting to be conveyed by the deed, from the listing and valuation of the property up to the execution of the deed, both inclusive, and that all things whatsoever required by law to make a good and valid sale and to vest the title in the purchaser were done.

Sec. 240. In all controversies and suits involving title to real property, claimed and held under and by virtue of a deed executed substantially as aforesaid by the clerk of the county court, the party claiming title adverse to that conveyed by such deed shall be required to prove, in order to

(fff) See *Frierson v. Branch*, 30—453; *Jacks v. Dyer*, 31—334; *Bird v. Jones*, 37—195; *Moore v. Woodall*, 40—42; *Wright v. Graham*, 42—140; *Sanders v. Ellis*, *Ib.*, 215; *Waggener v. McLaughlin*, 33—195; *Hunt v. Gaines*, *Ib.*, 267; *Gwynn v. McCauley*, 32—97.

(ggg) See *Ry. v. Parks*, 32—131; *Hickman v. Kemper*, 35—505; *Radcliffe v. Scruggs*, 46—96.

defeat the said title, either that the said real property was not subject to taxation for the year (or years) named in the deed, or that the taxes had been paid before the sale (hhh), that the property had been redeemed from the sale according to the provisions of this act, and that such redemption was had or made for the use and benefit of persons having the right of redemption, under the laws of this state; or that there had been an entire omission to list or assess the property, or to levy the taxes, or to give notice of the sale, or to sell the property. But no person shall be permitted to question the title acquired by a deed of the clerk of the county court, without first showing that he, or the person under whom he claims title to the property, had title thereto at the time of the sale, or that title was obtained from the United States or this state after the sale, and that all taxes due upon the property have been paid by such person, or the person under whom he claims title as aforesaid. *Provided*, in any case where a person had paid his taxes, and, through mistake (or otherwise) by the collector, the land upon which the taxes were paid was afterwards sold, the deed of the clerk of the county court shall not convey the title. *Provided, further*, in all cases where the owner of lands sold for taxes shall resist the validity of such tax title, such owner may prove fraud committed by the officer selling said lands or in the purchaser, to defeat the same, and, if fraud is so established, such sale and title shall be void (iii).

Sec. 241. The purchaser at the sale of lands or lots, or parts thereof, for the taxes, of the interest of any joint tenant, tenants in common or coparcener, or any portion of such interest, shall, on obtaining the deeds from the clerk of the county, hold the same as tenant in common with the other proprietors (or proprietor) of such land or lot, and be entitled to all the privileges of a tenant in common, until a legal partition of such land or lot, or part thereof, shall be made.

Sec. 242. Immediately after the expiration of the two years allowed by law for the redemption of land sold for taxes, the clerk shall make out a certificate of sale to the state for all lands purchased by the state, as shown

(hhh) See *Davis v. Hare*, 32—386; *Thornton v. Smith*, 36—508.

See *Radcliffe v. Scruggs*, 46—96.

(iii) The provisions of this section are limited to deeds made by the clerks, and do not embrace deeds made by the commissioner of state lands. *Townsend v. Martin*, 55—192.

See *Allen v. Ozark Land Co.*, 55—549.

by the records of such tax sale in his office which have not been redeemed, and state therein the amount of the taxes, penalty and cost thereon, and cause the same to be recorded in the recorder's office of the county, and thereupon the title to all lands embraced in such certificate shall vest in the state, and the clerk shall immediately transmit such certificate to the commissioner of state lands, and thereupon the said lands shall be subject to disposal, as other forfeited lands shall be (jjj).

Sec. 243. When, by the provisions of any former law of this state, any officer or person was by law authorized to make deeds for lands or lots sold for taxes, and the same has not been done, the clerk of the county court of the proper county shall be and is hereby authorized to make such deeds to all persons entitled thereto, and the deeds which shall be made by the clerk of the county court shall be good and valid in law, as if made by the person authorized under such former law to make such deeds.

Sec. 244. In case of a certificate of purchase of lands sold for delinquent taxes, issued to any purchaser under any of the acts heretofore passed, having been lost, mislaid or destroyed, and the fact being shown to the county clerk, and no deed having been executed therefor, said county clerk, being fully satisfied from the evidence of the existence and loss of any such certificate, shall, on written application for that purpose, proceed to make and execute to such purchaser a good and sufficient deed of conveyance for any such tract of land or lot, which deed shall be good and valid in law, to all intent and purposes, as if such certificate had not been mislaid, lost or destroyed.

Sec. 245. The clerk of the county court shall enter in a book, to be kept in his office, a minute of all deeds by him made for lands and lots, and parts thereof, sold for taxes, therein naming the person who stood charged with the taxes at the time of such sale, the name of the purchaser, a brief description of the land or lot, or part thereof, sold, the quantity sold, the name of the grantee in the deed and the date of the execution.

Sec. 246. The clerk of the county court of any county in which any lands or lots are situate which shall have been or may hereafter be sold for taxes, under the provisions of any law of this state, is authorized and required to execute the proper deed therefor to the person entitled to receive

the same, whether said land or lot shall, at the time of the execution of said deed, continue to be within said county or not, in the same manner as though the said land or lot still remained within the limits thereof, any law to the contrary notwithstanding, for which he shall be entitled to charge and receive a fee of one dollar.

Sec. 247. Upon the sale of any land, town or city lot, or part thereof, for taxes then due, if such sale should prove invalid on account of any informality in the proceedings of any officer having any duty to perform in relation thereto, the purchaser at such sale shall be entitled to receive from the proprietor of such land or lot the amount of taxes for which such land was sold, and the amount of taxes paid thereon by the purchaser subsequent to such sale, and such land or lot shall be bound for the payment thereof (kkk) and to recover from the officer failing to perform his duty as aforesaid (for which such officer shall be liable on his official bond), the penalty and cost of advertising, with interest thereon from the payment thereof, and, in the event of the purchaser having heretofore bid and paid a greater amount than the taxes, penalty and cost of advertising, the clerk of the county court shall draw a warrant on the county treasury for the amount of such excess as may have been paid thereon in favor of the purchaser or his assignee (lll).

Sec. 248. No sale of any land or lot, for delinquent taxes, shall be considered invalid on account of its having been charged on the tax-book in any other name than that of the rightful owner. *Provided*, such land or lot be in other respects sufficiently described on the tax-book, and the taxes for which the same is sold be due and unpaid at the time of such sale.

Sec. 249. All actions to test the validity of any proceeding in the appraisement, assessment or levying of taxes upon any land or lot, or part thereof, and all proceedings whereby is sought to be shown any irregularity of any officer, or defect or neglect thereof, having any duty to perform, under the provisions of this chapter, in the assessment, appraisement, levy-

(kkk) See *Cole v. Moore*, 34—582; *Worthen v. Badgett*, 32—496; *Hunt v. Curry*, 37—100; *Hickman v. Kempner*, 35—505; *Hare v. Carnall*, 39—196 *Coats v. Hill*, 41—149; *Bagley v. Castile*, 42—77; *Rogers v. Kerr*, *Ib.*, 100.

(lll) Under this section no cause of action accrues to a purchaser of lands at a tax sale, for reimbursement, until a court of competent jurisdiction has adjudged the sale invalid. *Ry. v. Alexander*, 49—190.

See *Hershey v. Thompson*, 50—484.

ing of taxes, or in the sale of lands or lots delinquent for taxes, or proceedings whereby it is sought to avoid any sale under the provisions of this chapter, or irregularity or neglect of any kind by any officer having any duty or thing to perform under the provisions of this chapter, shall be commenced within two years from the date of sale, and not afterward (mmm).

Sec. 250. No purchaser of any land, town or city lot, nor any person claiming under him, shall be entitled to any compensation for any improvements which he shall make on such land, town or city lot, within two years from and after the sale thereof; for improvements made after two years from the date of sale the purchaser shall be allowed the full cash value of such improvements, and the same shall be a charge upon said land (nnn), *Act March 31, 1883, secs. 140-155.*

Sec. 251. When it appears on the face of any deed executed by a county clerk, for land sold at delinquent tax sales, that two or more (ooo) tracts of land were sold together, contrary to law, when, in fact, said tracts were sold separately, as required by law, at the time of such sale, the clerk of the county court of the county in which said lands were sold, upon the presentation to him of such deed, and being satisfied from the records of his office that said tracts of land were sold separately, shall file said deed in his office and cancel the same, and shall thereupon execute in lieu thereof a deed for said land, reciting the execution of the former deed and the date thereof, the error therein, that each tract was sold separately, and the amount for which the same was sold, and in all other respects conform to the requirements of law.

Sec. 252. Said deed, when executed as provided in section 251, shall relate back to said canceled deed, and have the same force and effect, both in law and equity, as if executed on the same day. *Act February 17, 1883.*

(mmm) See SEC. 4819. *Ry. v. Parks*, 32—131.

This section does not cut off any meritorious defense to tax deed. *Radcliffe v. Scruggs*, 46—96; *Taylor v. VanMeter*, 53—204; *Townsend v. Martin*, 55—192.

All inquiry as to the validity of a tax title is cut off by a decree confirming the sale under which title is acquired. *Boehm v. Botsford*, 52—400.

(nnn) This section gives the purchaser the right to compensation for such improvement without exacting the showing of belief in the integrity of his title, which is required by the "Betterment Act." *Bender v. Bean*, 52—132.

See SECS. 2595-2597.

(ooo) See cases cited at SEC. 6623.

PAYMENT OF TAXES—WHO LIABLE TO PAY—GUARDIANS, AGENTS, ETC.,
DUTIES AND RIGHTS OF.

Sec. 253. Every person shall be liable to pay tax for the lands, town or city lots of which he may stand seized for life, by the courtesy, in dower, or by husband in right of his wife, or may have the care of as guardian, executor or administrator, or as agent or attorney, having the funds of the principal in his hands.

Sec. 254. It shall be the duty of each person holding lands as aforesaid to pay the taxes which may be assessed thereon each year.

Sec. 255. Every person holding lands as guardian, executor or administrator, and neglecting or refusing to list or pay the taxes upon the same in the manner aforesaid, shall be liable to an action by his ward or devisee for any damage sustained by such neglect.

Sec. 256. Every person having the care of lands as agent or attorney as aforesaid, and having funds of the principal in his hands for such purpose, neglecting or refusing to list or pay the taxes on such lands, shall be liable in an action to his principal for any damage such principal may have sustained by such neglect or refusal.

Sec. 257. Every attorney, agent, guardian, executor or administrators seized or having the care of lands as aforesaid, who shall be put to any trouble or expense in listing or paying the taxes on such lands, shall be allowed a reasonable compensation for the time spent, the expenses incurred and money advanced as aforesaid, which shall be deemed in all courts a just charge against the person for whose benefit the same shall have been advanced, and the same shall be preferred to all other debts or claims, and be a lien on the real estate as well as the personal estate of the person for whose benefit the same shall have been advanced (rrr).

Sec. 258. If any person who shall be seized of lands for life, or in right of his wife, shall neglect to pay the taxes thereon so long that such lands shall be sold for the payment of the taxes, and shall not within one year after such sale redeem the same according to law, such person shall forfeit to the person or persons next entitled to such land in remainder or reversion all the estate which he or she, so neglecting as aforesaid, may have

(rrr) See *Peay v. Field*, 30—600.

in said lands, and the remainder-man or reversioner may redeem the lands in the same manner that other lands may be redeemed after being sold for taxes; and, moreover, the person so neglecting as aforesaid shall be liable in an action to the next entitled to the estate for all damages such person may have sustained by such neglect.

Sec. 259. In all cases where any tract of land may be owned by two or more persons as joint tenants, coparceners, tenants in common, and one or more proprietors shall have paid or may hereafter pay the tax, or tax and penalty, charged on his proportion of such tract, or one or more of the remaining proprietors shall have failed, or may hereafter fail, to pay his proportion of his tax, or tax and penalty, charged on said land, and partition of said land has or shall be made between them, the tax, or tax and penalty, paid as aforesaid, shall be deemed to have been paid on the proportion of said tract set off to the proprietor who paid his proportion of said tax, or tax and penalty, and the proprietor so paying the tax, or tax and penalty, as aforesaid, shall hold the proportion of such tract set off to him, as aforesaid, free from the residue of the tax, or tax and penalty, charged on said tract before partition, and the proportion of said tract, set off to the proprietor who shall not have paid his proportion of said tax, or tax and penalty, remaining unpaid, shall be charged with said tax, or tax and penalty, in the same manner as if said partition had been made before said tax, or tax and penalty, had been assessed.

Sec. 260. Whenever any land so held by tenants in common shall be sold upon proceedings in partition, or shall be taken by the election of any of the parties to such proceedings, or when any real estate shall be sold at judicial sale, or by administrators, executors, guardians, or trustees, the court shall order the taxes and penalties and the interest thereon against such lands to be discharged out of the proceeds of such sale or election. *Act March 31, 1883, secs. 157-166.*

SETTLEMENT OF COLLECTOR—WITH THE CLERK.

Sec. 261. The clerk of the county court shall, within ten days after the close of the sale of lands for delinquent taxes, make settlement with the collector of the county, and ascertain the amount of taxes with which said

collector is to stand charged, after deducting the amount of taxes still remaining delinquent, and all errors, and the commissions allowed the collector by law from the several taxes charged on the tax-book, in just and ratable proportion (sss). *Act March 28, 1887, sec. 53.*

Sec. 262. The county courts of the several counties in this state shall, at the July term thereof, examine the settlement of the collectors of the several counties with the clerks of said counties, and approve or reject the same. *Act March 28, 1887, sec. 49.*

Sec. 263. The county courts of the several counties of this state shall, at the July term thereafter, examine the settlement of the county clerks with the collectors of said counties, and approve or reject the same. And if the same shall be found to be correct, the county court shall order the settlement spread in full upon the records of said county courts. And the county clerks shall certify to the auditor without delay, the action of said county courts on said settlements, whether approved or rejected. And if rejected, the clerks shall at once proceed to restate the settlement and again submit it to the county courts. *Ib., sec. 55.*

WITH THE AUDITOR.

Sec. 264. The collector shall, within fifteen days after the settlement made with him by the clerk of the county court, as provided in section 261, has been examined and acted upon by the county court, as provided in section 263, proceed to the seat of government and make settlement with the auditor of state for all state taxes collected by him (ttt). *Act March 28, 1887, sec. 56.*

TO PAY OVER MONEY AFTER SETTLEMENT.

Sec. 265. The collector shall, immediately after such settlement, and before the first day of July of each year, pay over the moneys thus found due at such settlements to the persons or officer entitled to receive them, taking therefor duplicate receipts, one of which, in each instance, shall be filed with the clerk of the county court, for money so paid. *Act March 28, 1887, sec. 50.*

(sss) The collector is required to pay over to the city treasurer taxes belonging to municipal corporations within five days after his settlement with the clerk. SEC. 5184.

(ttt) See *Crawford v. Carson*, 35—565.

FAILING TO PAY MONEY INTO THE STATE TREASURY—PENALTY AND PROCEEDINGS TO COLLECT.

Sec. 266. If any collector of revenue and others bound by law to pay money directly into the state treasury shall fail to pay the amount so found due into the treasury and produce the treasurer's receipt to the auditor therefor, within fifteen days after the settlement required in section 264, the delinquent shall forfeit the commissions allowed him by law, and the sum of twenty-five per centum on the amount, and also a penalty of five per centum per month on the amount wrongfully withheld, to be computed from the time the same ought to have been paid until actual payment, and the auditor shall charge such delinquent accordingly, and the amount of principal and forfeitures may be recovered as hereinafter provided for. *Act March 31, 1883, sec. 171.*

Sec. 267. It shall be the duty of the auditor, immediately after the time specified in section 266, in each year, to issue a warrant of distress against such delinquent and his sureties, directed to the coroner or any constable in the county in which such delinquent and sureties reside, commanding him to distrain and sell the goods and chattels, lands and tenements of such delinquent collector, and his sureties in the same manner as such property is required to be sold by virtue of an execution issued out of the circuit court (uuu). *Act March 28, 1887, sec. 57.*

Sec. 268. When any lands and tenements shall be sold by any officer under the authority of any such warrant, he shall make, execute, acknowledge and deliver to the purchaser, at the expense of said purchaser, a deed for such lands and tenements in the same manner as sheriffs are required to make and acknowledge deeds for lands sold under execution, and such deeds, when recorded, shall have the same force and effect as a deed made by a sheriff.

Sec. 269. The amount due by such collector shall be a lien on the goods and chattels, lands and tenements of such delinquent collector and his securities from the time such warrant shall come to the hands of such officer until the same shall be discharged according to law.

(uuu) See *Murray's Lessee v. Hoboken Land and Improvement Co.*, 18 Howard, 272; *Crawford v. Carson*, 35—565.

Sec. 270. It shall be the duty of every such officer, immediately after the receipt of any such warrant, to indorse thereon the time when it came to his hands, and to cause a record thereof to be made in the office of the clerk of the circuit court of his county.

Sec. 271. All moneys which may remain in the hands of such officer of the proceeds of any sale of goods and chattels, lands or tenements, after paying the amount of such warrant and the cost and expense of such sale, shall be returned to such delinquent collector, or his securities, as the case may be.

Sec. 272. Every officer collecting money by virtue of any warrant issued by the auditor as aforesaid shall be entitled to receive the same fees as are allowed by law to sheriffs for collecting and paying over moneys under executions.

Sec. 273. It shall be the duty of every officer collecting money by virtue of any warrant issued as aforesaid to pay the same into the state treasury within thirty days after the receipt thereof. He shall, with his securities, be liable on his official bond for the amount so collected, with the sum of twenty-five per centum added thereto, in case of his failure to pay the same into the state treasury as herein provided. *Act March 31, 1883, secs. 173-178.*

FINANCIAL REPORT OF CLERK.

Sec. 274. The clerk of the county court shall, within thirty days after each annual settlement (with the county collector), make out a full and complete financial report of the condition of the affairs of the county, giving its indebtedness, its source of revenue, the amount expended during the fiscal year for all purposes, the amount from all sources for all purposes collected, the financial condition of each school district in the county, and forthwith publish the same in some newspaper published in such county; if no newspaper be published in such county, then the same to be published in a newspaper having the largest circulation in the county (vvv).

Sec. 275. The county court shall make an order for the payment of the fee for printing said report in accordance with the law in force at the time such publication is made regulating fees for printing. *Ib., sec. 86.*

SETTLEMENT OF CLERKS AND SHERIFFS WITH COURTS OF RECORD.

Sec. 276. The clerks of the several courts of record of this state shall collect and pay over to the treasurer of their respective counties all taxes due on writs, executions, official seals and other sums of money, by whatever name designated, coming to their hands and belonging to the state or county, and shall render account at each term of their respective courts, verified by oath, of all moneys which have been received to the use of the state or county not before accounted for (www).

Sec. 277. Such clerks shall keep a true account of all fines, penalties, forfeitures and judgments imposed, adjudged or rendered in favor of the state or any county by their respective courts, distinguishing those payable to the state from those payable to the county, and shall keep the same open to the inspection of the judges of the respective courts and the members of the grand jury.

Sec. 278. It shall be the duty of the judges of such courts to audit and adjust the accounts of their respective clerks, according to the records, dockets and papers of their respective courts, and to make two separate bills of the several sums, wherewith their clerks shall be chargeable, specifying on what account the same is payable, and certify a copy thereof to the clerk of the county court, who shall file and charge the same accordingly; and the other shall be certified and delivered to the county treasurer.

Sec. 279. It shall be the duty of the clerks of all courts of record, at each term thereof, to settle with the sheriff of each county for all moneys by him received, or which he ought to have collected, for the use of the county, and which have not been accounted for, and they shall make out two separate lists of all sums chargeable to any sheriff and payable to any county, specifying on what account, and certify the same under the seal of the court.

Sec. 280. One of the lists so certified shall be immediately transmitted to the clerk of the county court to which said sums are payable, who shall immediately charge the same accordingly, and the other shall be transmitted to the treasurer of the said county.

SETTLEMENT OF THE COLLECTORS AND OTHER OFFICERS WITH THE COUNTY COURT.

Sec. 281. The county court shall at each regular term cause the collector to settle his accounts of all blank licenses with which he shall stand charged; and, after giving him credit for all licenses returned, shall ascertain the amount due from him on that account, and shall cause the same to be entered of record, so as to show the amount due the county.

Sec. 282. In like manner and time the sheriff or collector shall be required to settle his accounts of all moneys received by him on account of taxes, fines, penalties and judgments, and the same shall be entered of record, so as to show what is due the state and county, respectively, from what officer received, from what branch of revenue, and the particular fund, if any, to which the same belongs. If any collector shall fail to make settlement with the county court at the time aforesaid, he shall be attached until he makes such settlement. Immediately after such settlement with the county court the clerk of the county court shall certify to the auditor of the state the amount due the state, and the collector shall within fifteen days thereafter pay the same into the state treasury, and in ten days thereafter pay over to the county treasurer all sums due the county.

Sec. 283. The sheriff shall collect and account for all taxes due upon convictions, and all fines, forfeitures and other sums of money, by whatever name designated, owing to the state or any county by virtue of an order, judgment or decree of a court of record (xxx).

Sec. 284. Whenever the sheriff or collector shall receive the amount due from any officer by voluntary payment, or by the sale of goods and chattels, he shall give the officer duplicate receipts for the same, stating therein the whole amount received, how much for the state and how much for the county, and the particular fund to which it belongs, and the officers taking such receipts shall, without delay, deposit one of them with the clerk of the county court.

Sec. 285. The clerk of the county court shall charge the sheriff or collector and county treasurer with all moneys that may come into their hands by virtue of any of the provisions of this chapter, and the money

received for penalty and costs of advertising shall be first applied by the sheriff or collector to the cost of advertising the delinquent lands, and the surplus, if any, paid into the county treasury at the time of his annual settlement. Should there not be sufficient penalty and cost of advertising to pay the cost of advertising the delinquent lands, the balance shall be paid out of the county treasury.

Sec. 286. Every collector of the county revenue having made settlement according to law of the county revenue received and collected by him shall pay the amount found due from him into the county treasury, and the treasurer shall give duplicate receipts therefor, one of which shall be filed by the collector in the office of the clerk of the county court.

Sec. 287. Every collector or sheriff who shall fail to make payment of the amount due from him on settlement, in the time and manner prescribed in the preceding section, shall forfeit and pay to the county the sum of five per centum per month on the sum wrongfully withheld, to be computed from the time the payment ought to have been made until actual payment, which may be recovered by suit on his official bond (yyy).

Sec. 288. All collectors, sheriffs, clerks, constables and other persons chargeable with moneys belonging to any county shall render their accounts to and settle with the county court at each regular session thereof, and pay into the county treasury any balance which may be due the county, and take duplicate receipts therefor, and deposit one of them in the office of the clerk of the county court within five days thereafter (zzz).

Sec. 289. Whenever the court shall make such settlement with any officer the substance thereof shall be entered of record, so as to show separately the whole amount received by such officer, the amount of commission allowed him, how much remains due to the state and how much to the county, and on what account each sum of money was received, and to what particular fund, if any, it belongs.

Sec. 290. All officers who shall have made settlements with the courts as aforesaid shall forthwith pay to the treasurer the full amount with which they shall stand charged on such settlement, and, in default thereof, the sheriff or collector shall enforce the payment in the manner and by the means prescribed in this act for enforcing the collection of taxes.

(yyy) See *Jones v. State*, 14—170.

(zzz) See Sec. 592.

Sec. 291. Every officer required to make settlement who shall fail to settle his accounts in the time and manner prescribed by law may be attached and imprisoned until such settlement shall be made to the satisfaction of the court to which he is accountable.

Sec. 292. Every such officer who shall fail to pay the amount due from him on such settlement, and who shall be returned by the collector or treasurer to the county court as a delinquent, so that the collector or treasurer shall be credited in their accounts with the amount of such delinquency, shall forfeit five per cent. per month on the amount due from the time it ought to have been paid until collected, which may be collected by suit on his official bond.

Sec. 293. If any person thus chargeable shall neglect to render true accounts, or settle as aforesaid, the county court shall adjust the accounts of such delinquent according to the best information that can be obtained, and ascertain the balance due the county (a4).

Sec. 294. In such case the court may refuse to allow any commission to such delinquent, and he shall moreover, without delay, pay into the county treasury the balance found due as aforesaid.

Sec. 295. If such delinquent shall not pay the amount thus found due the county, and produce the treasurer's receipt therefor, within ten days after the balance is ascertained, the clerk shall charge such delinquent, as a penalty for such failure, twenty-five per centum on the amount then due.

Sec. 296. Unless such delinquent shall appear upon the first day of the next succeeding session of the court, and show good cause for setting aside such settlement, the court shall enter judgment for the amount due,

(a4) It is not necessary that the delinquent officer shall have notice that a settlement of his accounts will be made by the court under this section, because at that term no judgment can be rendered, the proceedings being preliminary.

Unless the delinquent appear at the next term, and show cause for setting aside the settlement as required by section 6690, the court may render judgment against him, but he must have notice to appear. But he may waive notice by appearing and moving to set aside the settlement. *Trice v. Crittenden Co.*, 7—162.

If he be dead, notice should be given his administrator. *Goree v. State*, 22—236, and see *Carnall v. Crawford Co.*, 11—604.

with the penalty added thereon, and fifty per centum per annum until the same shall be paid, and may issue execution thereon (b4).

Sec. 297. If good cause be shown for setting aside such settlement, the court may re-examine, settle and adjust the same according to law, and may remit any penalty that may have been imposed.

Sec. 298. The amount or balance of every account so settled and due to the county shall be a lien from the date of the settlement of such account on the real estate and personal property of the delinquent situated in the county wherein each delinquent lives.

Sec. 299. When any balance shall be found against any clerk, sheriff, collector, coroner, constable or other officer, for moneys accruing to the county treasury, and the same shall not be paid within the time prescribed by law, it shall be lawful for the county court, fifteen days' notice being given to such delinquents and their securities, to render judgment against delinquents and their securities, for the amount of all moneys ascertained to be due the county, and issue execution therefor.

Sec. 300. Whenever any error shall be discovered in the settlement of any county officer made with the county court, it shall be the duty of the court, at any time within two years from the date of such settlement, to reconsider and adjust the same (c4).

Sec. 301. Before any such settlement shall be re-examined, it shall be the duty of the court to give such officer ten days' notice of the time and place where such settlement will be adjusted.

PENALTIES.

Sec. 302. If any county treasurer, collector or sheriff loans any money belonging to the state or county, with or without interest, or uses the same for his own purposes, he shall forfeit and pay for every such

(b4) The county court is the forum where the liability of the collector of the county revenues is to be ascertained and evidenced by its records, and an adjudication in that forum is conclusive evidence against the securities as well as the collector. *Jones v. State*, 14—170. It is the province of the county court to adjust and settle the accounts of the collector, and they cannot be settled in the circuit court in an action on the collector's bond. *Goree v. State*, 22—236, and see *State v. Craft*, 24—551.

The county court may render judgment against a delinquent collector, or his securities, for the county revenue which he has collected and failed to pay over. *Christian v. Ashley Co.*, 24—142.

(c4) See *White County v. Key*, 30—603.

offense a sum not to exceed one thousand dollars nor less than five hundred dollars, to be recovered in civil action at the suit of the state, for the use of the state, county, city, town or body politic. (d4).

Sec. 303. Every clerk of the county court, assessor or collector who shall, in any case, refuse or knowingly neglect to perform any duty enjoined on him by this act, or who shall consent to or connive at any evasion of its provisions whereby any proceedings herein required shall be prevented or hindered, or where any property required to be listed for taxation or for the collection of taxes thereon, or the valuation thereof, be entered on the tax-books or list at less than the true value, shall, for every such neglect, refusal, connivance or consent, forfeit and pay to the state not less than one hundred nor more than five thousand dollars, at the discretion of the court, to be recovered by an action in the name of the state before the circuit court of the proper county.

OFFICIAL DISTRIBUTION OF TAXES.

Sec. 304. All taxes collected and arising under the provisions of any law of this state from taxation shall be distributed by the auditor of state, if in possession of state authority, or, if in possession of county authority, by the clerk of the county court, to the several funds to which they belong.

Sec. 305. The auditor of state is hereby denied authority to draw any warrant on the treasurer to be paid out of the general revenue of the state for the support of common schools, and any act or part of act appropriating any of the general revenue of the state for common schools is repealed.

REFUNDING TAXES ERRONEOUSLY ASSESSED AND PAID.

Sec. 306. In case any person has paid or may hereafter pay taxes on any property, real or personal, erroneously assessed, upon satisfactory proof being adduced to the county court of the fact, the said court shall make an order refunding to such person the amount of the county tax so erroneously assessed and paid, and, upon production of a certified copy of

(d4) For other penalties for neglect or violation of official duty on the part of officers charged with the collection, safe-keeping and disbursement of the revenue, see SECS. 6716, 1715, 1872, 1873, 1876, 1880 and 1849-1854.

such order to the auditor, he shall draw his warrant on the state treasurer for the amount of state tax erroneously assessed and paid. Such warrant shall be paid out of the appropriation to pay moneys arising from the erroneous assessment and collection of taxes. But in case there shall be no appropriation, or the appropriation shall have been exhausted, then the auditor shall issue a certificate of indebtedness therefor.

Sec. 307. If the taxes charged on any land or lot, or part thereof, be regularly paid, and such land erroneously returned delinquent and sold for taxes, the sale thereof shall be void, and the money paid by the purchaser at such void sale shall be refunded to him by the officer having the same in charge, on the order of the county court that such land was erroneously returned delinquent and sold for taxes.

SUITS AGAINST COLLECTORS AND OTHERS—COSTS, ETC.

Sec. 308. Whenever an action has been or may hereafter be brought against any person holding the office of county collector, county assessor or clerk of the county court for performing or attempting to perform any duty or thing authorized by any of the provisions of this act, or the laws of this state, for the collection of the public revenues, such collector, assessor or clerk shall be allowed and paid out of the county treasury reasonable fees of counsel and other expenses for defending such action or suit, and the amount of any damages or costs adjudged against him, which said fees, expenses, damages and costs shall be apportioned ratably by the clerk of the county court among all the parties entitled to share the taxes so collected, and by the said clerk shall be deducted from the shares or portions of revenue at any time payable to each, including as one of said parties the state itself, as well as the counties, townships, towns or cities and other corporations or other organizations entitled thereto as aforesaid.

FINES, PENALTIES AND FORFEITURES GO TO THE COUNTIES—COLLECTION OF.

Sec. 309. All fines, penalties and forfeitures imposed by any court or board of officers whatsoever, except those imposed by mayors or police courts in any city or town, shall be paid into the county treasury for county purposes (e4).

(e4) See SEC. 5149.

Sec. 310. All justices of the peace are prohibited from collecting fines, penalties and forfeitures, but that duty shall devolve upon sheriffs and constables exclusively (f4).

Sec. 311. Justices of the peace, township or county officers shall, semi-annually, on or before the first day of the circuit court, at each term thereof, file in the office of the clerk of the circuit court of their respective counties, an official transcript of all fines, penalties and forfeitures adjudged by them against defendants in the courts, giving the style of the case, the full name of the parties and the amount of the judgment, if any, in each case, and the name of the officer collecting the same (g4).

Sec. 312. All constables, or other collecting officers of any township shall, quarterly, on the first Monday in July, October, January and April, turn over to the county treasurer of their respective counties all fines, penalties and forfeitures, less the commission due such officers, which shall be three per cent. for constables on the amount collected by them, taking duplicate receipts therefor, one of which shall be immediately filed with the clerk of the county court of their respective counties (h4).

Sec. 313. On or before the first Monday of July, October, January and April of each year, the clerks of the county courts shall audit the accounts of constables and other collecting officers referred to in the preceding section; to this end the said clerks of the county courts shall open a separate account with each of the said officers in a book to be kept by said clerks for that purpose. They shall charge said collecting officer with the amount of fines, penalties and forfeitures adjudged against defendants in justices', or other courts in the county, excepting circuit courts, police and city courts, as shown by the transcript of said judicial officers on file in the offices of the clerks of the county courts (i4). *Ib.*

Sec. 314. Said constables and other collecting officers shall not be credited with any deficits as to fines and penalties, unless they shall be able to show the death of the party against whom the fine or penalty was adjudged, or that imprisonment in default of the payment of fine has been complied with in accordance with the provisions of the criminal law. The

(f4) See *Floyd v. State*, 32—200.

(g4) See *State v. Kirk*, 53—337.

(h4) See SEC. 5149.

(i4) See *Hackett v. State*, 56—133; *State v. Fort Smith*, 56—137.

constables and other collecting officers shall not be credited with any deficit on forfeited bail bonds or recognizances unless the return of the officer serving the execution in said case shall show that the defendant had no property subject to execution, and in such case a certified copy of such return shall be filed with the clerk of the county court by the officer charged with said collection.

Sec. 315. The clerk of the county court shall, at the commencement of each session of the circuit court of his county, furnish the prosecuting attorney with a written statement of all deficits of constables and other collecting officers on account of fines, penalties and forfeitures. It shall be the duty of the prosecuting attorney to bring suit against said constables and collecting officers and their securities for the deficiency due, and also to prosecute said officers by indictment for malfeasance in office.

Sec. 316. At the close of the term of each circuit court the clerk of said court shall furnish to the clerk of the county court an official abstract of all fines, penalties and forfeitures adjudged against defendants during said term of the circuit court or courts, giving in said abstract the style of each case, the full name of the parties and amount of each fine, penalty and forfeiture separately.

Sec. 317. The sheriffs of counties, and they only, are authorized to collect fines, penalties and forfeitures adjudged against defendants in circuit courts of the state, and said sheriffs shall, at the time of their quarterly settlements with the county court, turn over to the county treasurer all moneys received by them (j4).

Sec. 318. The clerk of the county court shall further charge the county treasurer with all fines, penalties and forfeitures turned over by constables and other collecting officers in pursuance of the provisions of this chapter.

Sec. 319. The clerk of the county court shall further charge the sheriff with all fines, penalties and forfeitures adjudged in the circuit courts. The sheriff shall not be credited with any deficit on fines or penalties imposed in the circuit court unless he shall be able to show the death of the party against whom the fine or penalty was adjudged, or imprisonment in default of fine, as provided by law in such cases.

Sec. 320. The sheriff shall not be credited with any deficit or forfeited bail bond or on recognizances, unless the return of the officer charged with the execution of said judgment shall show that the defendant had no property subject to execution, in which case a certified copy of such return shall be filed with the clerk of the county court by the sheriff.

Sec. 321. A violation of any provision, or failure to comply with any of the requirements of this act, by any of the officers herein enumerated, shall be malfeasance in office, and, upon conviction thereof, said officer shall pay a fine of not more than five hundred dollars and be removed from office.

Sec. 322. If the settlement of the county collector or sheriff with the clerk of any county court shows any other deficit than that authorized by the provisions of this act, it shall be the duty of the county court to immediately notify the prosecuting attorney for the county in which said collector or sheriff resides of that fact, upon which notice it shall be the duty of the prosecuting attorney to immediately bring suit against said county collector or sheriff and his securities for the amount of such deficiency, and also to prosecute said county collector or sheriff by indictment for malfeasance in office. *Ib.*, secs. 179-225, as modified by act March 30, 1891.

PROCEEDINGS TO PROTECT THE PUBLIC REVENUES.

Sec. 323. Any sheriff, collector of revenues or constable, or other officer collecting moneys belonging to the State of Arkansas, or to any county therein, who shall fraudulently state his account for settlement, and thereby deprive the State of Arkansas, or any county therein, of its just revenues; or any county clerk who shall keep fraudulent accounts against the collector or against the county treasurer, or shall make fraudulent and false additions of the tax-books, thereby concealing the true value of the same; or any county treasurer who shall keep fraudulent accounts of the county revenues coming into his hands, and by any of said fraudulent acts the State of Arkansas, or any county therein, shall be deprived of its just revenues, the officer so offending, upon conviction, shall be removed from office.

Sec. 324. Any county judge who shall wilfully approve any false and fraudulent account made by the sheriff, collector, county clerk, treasurer or other officer collecting or holding revenues belonging to the State of Arkansas, or to any county therein, or receive a bribe for doing an unlawful act, upon conviction, shall be removed from office.

Sec. 325. If any taxpayer in any county in this state shall have knowledge of such corruption in office, whereby the State of Arkansas, or any county therein, has been deprived of its just revenues, he shall have the right, in his own name, as a taxpayer to institute legal proceedings against such officer by a petition to the circuit judge sitting in chancery, setting forth the facts and nature of such corrupt acts, together with exhibits and proofs, and the same shall be verified by affidavit of the petitioner, and upon ten days' notice to the defendant, the cause shall proceed as other causes, but shall be heard, tried and determined at the first court after the same shall have been filed, provided the required notice shall have been given.

Sec. 326. The proceedings authorized by this act shall be summary; but if it shall appear to the court that the ends of justice require it, a continuance may be granted to either party to the next term of the court, but not thereafter; and the party to whom the continuance is granted shall be required to enter into additional bond, the amount to be fixed and the security to be approved by the court.

Sec. 327. Upon such trial, if it shall appear that the official acts of such officer are corrupt and fraudulent, and by such acts and doings he shall have defrauded the State of Arkansas, or any county therein, of its just revenues, a decree shall be entered against him, ousting him of his said office, and declaring the same to be vacant, and for all moneys which he may have unlawfully detained; but if upon the hearing of said cause it shall appear that the defendant is not guilty, and has not committed the fraudulent acts complained of, and that the state and the county have not been deprived of their revenues as complained of by the petitioner, a decree shall be entered according to the facts, and also a decree shall be entered against the petitioner and his securities for any sums of money which the defendant may have actually lost by reason of said proceeding.

Sec. 328. Before any such cause shall be heard, the petitioner shall enter into bond to the defendant, with security, to be approved by the circuit judge, in a sufficient sum to pay any damage that the defendant might sustain by said proceedings.

Sec. 329. Nothing in this act contained shall preclude the State of Arkansas from prosecuting said county officers, or others, for the acts complained of under any of the criminal laws of this state. *Act March 18, 1879.*

PROVISIONS FOR THE COLLECTION OF OVERDUE TAXES FROM CORPORATIONS.

Sec. 330. Where the attorney-general shall be satisfied from his own investigations, or it is made to appear to him by the statement in writing of any reputable taxpayer of the state, that in consequence of the failure from any cause to assess and levy taxes, or because of any pretended assessment and levy of taxes upon any basis of valuation other than the true value in money of any property hereinafter mentioned, or from any other cause, that there are overdue and unpaid taxes owing to this state, or any county or municipal corporation, or school district by any corporation, or upon any property now in this state which belonged to any corporation at the time such taxes should have been properly assessed and paid, that it shall be his duty to at once institute a suit or suits, in chancery, in the name of the State of Arkansas for the collection of the same, in any county in which the corporation owing said taxes may be found, or in any county in which any part of such property as may have escaped the payment, in whole or in part, of taxes as aforesaid may be situated, in which suit or suits, the corporation owing said taxes, or any corporation or person claiming an interest in any such property as may have escaped taxation as aforesaid, shall be made a party defendant, and the governor is authorized to employ any attorneys that may be necessary to assist the attorney-general in such suits, for a compensation not to exceed five per centum of the amount recovered, the exact amount of said compensation to be fixed by the court hearing the cause, which said fee shall be deducted from the amount recovered and paid over to the said attorney or attorneys, under the direction of the court as costs of the litigation.

Sec. 331. If the attorney-general shall certify on the complaint to be filed in said suit, that he can not find any one in the state upon whom service can be had so as to bind said corporation according to existing laws, the clerk shall enter a warning order against said corporation, requiring the defendant to appear in said cause on the first day of the next term of the court to answer said complaint, which warning order shall be published and proved as other warning orders are required to be published and proved by law, and with the like effect.

Sec. 332. Said complaint shall describe as nearly as may be the property on which said taxes have accrued, and the state, counties, school districts and municipal corporations aforesaid, shall have a lien on said property from passage of this act, for the payment of said overdue taxes, to be enforced by suit as herein provided.

Sec. 333. On a final hearing the court shall determine the amount of said state, county, school district and municipal taxes, and the penalties and costs due on the same, if any, and to whom said taxes are payable, and shall decree payment thereof accordingly, and where for any reason the property on which said taxes may have accrued shall not have been assessed, the court shall refer the matter of such assessment to the assessor of the county in which said property may lie, who shall make his assessment for any past year or years mentioned in the order of reference, and shall return the same into court; and in case the property shall belong, or have belonged to any delinquent railroad company, the court shall in like manner refer the assessment of said property to the proper officer or board of officers or commissioners, whose duty it shall be, at the time of the making of said reference to assess property of like kind, and they shall report their assessment to the court, and the court shall have power to hear testimony and to change said assessment as justice and equity may require.

Sec. 334. On such final hearing, the court shall render a decree declaring and enforcing said lien for taxes, by sale of the property to which said taxes may have attached. In case of a railroad, the lien shall be decreed against the whole line of the road, including the main line and side tracks, switches, turnouts, improvements, stations, structures, rights of way, embankments, tunnels, cuts, ties, trestles and bridges, and all lands in the state

belonging to such corporations. The court shall decree the said taxes shall be paid within three months after rendering said decree and that in default thereof said defendant shall pay a penalty of ten per centum on the amount of said taxes.

Sec. 335. The sale of any property under said decree shall be made in the same manner as other sales are made under other decrees foreclosing liens in chancery, and with like effect, and the court shall distribute any fund accruing under this act, among the state, counties and municipal corporations, and school districts entitled thereto by law.

Sec. 336. All parties having any interest in any property sold under this act, may redeem the same at any time within one year from the date of said sale, by paying into court the amount of said decree and penalty on the same, at the rate of twenty-five per centum per annum.

Sec. 337. In case no such redemption is made, the court shall cause a deed to be executed to said purchaser, conveying said property to him absolutely, and said deed shall have the same force and effect that are given by law to other deeds for property sold under decree in chancery.

Sec. 338. Suits brought under this act shall have precedence of all other suits in the courts in which they may be pending, and shall be disposed of without unnecessary delay, and no appeal from any decree rendered in any suit brought under this act, shall be taken after thirty days from the date of such decree.

Sec. 339. The decree rendered in said suit shall be for all taxes due the state, and to the counties, cities and other political subdivisions of the state, and shall not be confined to the taxes due in the county in which the suit is brought. *Act. March 1, 1887, secs. 1-10.*

RIVER TRADERS (a).

Section 340. Whoever shall deal in selling of goods, wares and merchandise and produce other than the growth, produce or manufacture of this state (b), by going from place to place on the navigable streams within or bordering on this state, in boats of any kind, to sell the same, is declared to be a river trader.

(a) See SECS. 1909—1911.

(b) A similar statute has been held unconstitutional. See *State v. McGinnis*, 37—362.

Sec. 341. Every river trader shall, before he commences business in this state, pay for and take out license for the privilege of trading as hereinafter provided.

Sec. 342. Every river trader desiring to trade in this state shall apply to the collector of the revenue of the county, and, on paying to such collector the sum of one hundred dollars as a state tax, and the sum of one hundred dollars (c) as a county tax, he shall receive from such collector a license to trade for the term of twelve months, which license shall authorize such trader to carry on his business within the limits of such county.

Sec. 343. It shall be the duty of the collector of the county where any river trader shall stop for the purpose of trading, without having first obtained license as hereinbefore provided, to call upon such river trader and demand payment of the amount for such license, and his fees and mileage for collecting the same, and, upon the failure of such river trader to pay said sums, the collector shall seize and detain such boat, and shall arrest such river trader and carry him before the nearest justice of the peace, who shall, without delay, inquire whether or not such trader has been guilty of a violation of the provisions of this act, and, if found guilty, such trader shall be adjudged to pay the amount for such license and all costs of prosecution, and the boat and goods so seized by the collector, or so much thereof as may be necessary, shall be sold to pay such judgment; and, if found not guilty, he shall be discharged at the cost of the state. *Provided*, the state or defendant may appeal from the judgment of the justice of the peace to the circuit court.

Sec. 344. No river trader shall be authorized to sell any spirituous or vinous liquors by virtue of his license. *Act March 6, 1875, secs. 1-4, 9.*

ASSESSMENT AND PAYMENT OF POLL TAXES.

Sec. 345. That at any time after the assessment lists have been delivered to the county clerk for the purpose of enabling him to prepare the tax-books for the collector, any person whose name has for any cause been omitted from the said lists may have his name included in said list and placed upon the tax lists in the hands of the collector by application to the said clerk at any time before the Saturday next preceding the first Monday of July, when the collector is required to make his final settlement with the

(c) But see SEC. 6406, 6412.

county court. If the said application shall be made after the tax-books have been delivered to the collector, the clerk shall certify the said supplemental assessment, which he is hereby authorized to make, to the collector, and shall charge to said collector the amount of tax and penalties so added. In addition to the sum assessed against any such applicant for poll-tax, the clerk shall extend against him a penalty for failing to return his assessment to the assessor at the proper time, one dollar—twenty-five cents of which shall go to the clerk for his services, and seventy-five [cents] shall go into the fund for general county expenses; and if said application shall be made after the 10th of April, the collector shall collect a penalty of twenty-five cents for a failure to pay the said poll-tax at the time prescribed for making payment of taxes without penalty. In addition to the assessment of poll-tax in such cases, it is hereby made the duty of said clerk to assess any property held by said applicant, and which, for any reason, has been omitted from the tax-books.

Sec. 346. Upon the payment of poll-tax assessed against any person liable therefor, and the specific penalties imposed for a failure to cause the same to be assessed or paid at the time allowed for severally doing these acts without penalty, the person making such payment shall be entitled to receive from the collector a separate poll-tax receipt, and to have his name included in the collector's official list of persons who have paid poll-tax; and it shall be unlawful for any collector to refuse to execute such receipt, or to enter on said list the name of any such person, because of the failure or refusal to pay the taxes due upon any property held by such person. But all other remedies now given by law for a failure to pay such taxes on any such property are hereby preserved.

Sec. 347. The "time for collecting taxes," as this term is employed in the constitution in connection with the payment of poll-taxes, is hereby defined to be the period between the first Monday in January and the Saturday next preceding the first Monday in July, on which last named date the collector is required by law to make his final settlement with the county court. Any person liable to pay poll-tax, and who has paid the same at any time within the dates named, shall, if possessed of the other qualifications required by law of an elector, be entitled to vote at any election held in this state at any time before the first Monday in July of the year succeeding that

in which the payment is made. The auditor shall cause to be printed in the blank poll-tax receipt which he is required to furnish to the collector, and the county election commissioners are required to have printed in plain type and in a conspicuous place on the lists which they are required to furnish to the election judges, an express statement of the time within which the payment in any particular case will authorize the tax-payer, otherwise qualified, to vote. The auditor shall furnish to each collector in the state as many blank poll-tax receipts containing the statement aforesaid, as will be necessary to supply to each taxpayer a proper receipt. It is hereby made unlawful for the auditor to fail to furnish to such collector a sufficiency of said blanks, or for any collector to furnish to any taxpayer a receipt prepared otherwise than on one of said official blanks. It is made the duty of the collector at the time he makes his final settlement with the state treasurer to deliver to the auditor all unused blanks. If the collector shall fail to file said unused blank receipts, the auditor shall charge him on his account for the benefit of the general revenue fund with a sum equal to one (\$1) dollar for each of said blanks not so returned, and the auditor shall not issue to the said collector a *quietus* until said sum is fully paid, and in addition thereto the collector shall be liable to the penalties prescribed by this act as for a violation of its provisions. *Act March 18, 1895.*

FERRIES.

Sec. 348. No person shall keep any ferry over or across any public navigable stream or lake, so as to charge any compensation for crossing the same, without first procuring a license from the county court of the county in which such ferry is situated.

Sec. 349. Before any ferry shall be established, the court shall determine what tax shall be paid by such applicant for the privilege of such ferry, which shall not be less than one dollar nor more than one hundred dollars. *Rev. Stat., chap. 62, secs. 1-8.*

Sec. 350. It shall be the duty of the clerk of the county court, immediately after the assessment of any tax for ferry privileges by the court, to issue a license for the ferryman to whom such privileges were granted, and to deliver the same to the sheriff, and charge him with the amount

thereof, in the same manner that he is required to be charged with other county revenue. *Ib.*, *sec.* 3.

Sec. 351. The sheriff shall settle for the amount collected by him for ferry tax in the manner and at the time that he is required to settle for other revenue of the county. *Ib.*, *sec.* 7.

Sec. 352. All property within the jurisdiction of this state, and any interest therein, whether belonging to inhabitants of this state or not, and whether tangible or intangible, which shall pass by will or by the intestate laws of this state, or by deed, grant, sale or gift, made or intended to take effect in possession after the death of the grantor, to any person or corporation in trust or otherwise, other than to or for the use of the father, mother, husband, wife, lineal descendant, adopted child and the lineal descendants of an adopted child of decedent, shall be liable to a tax of five (5) per centum of its value for the use of the state; and all executors, administrators, and other trustees, and any such grantee under a conveyance made during the grantor's life, shall be liable for all such taxes, with interest until the same shall have been paid as hereinafter directed.

Sec. 353. When any person shall bequeath or devise any property to or for the use of father, mother, husband, wife, lineal descendant, an adopted child or the lineal descendant of any adopted child, during life or for a term of years and the remainder to a collateral heir, or to a stranger to the blood, the value of the prior estate shall, within sixty (60) days after the death of the testator, be appraised in the manner hereinafter provided, and deducted from the appraised value of such property, and the tax on the remainder shall be payable one (1) year from the death of said testator, and together with any interest that may accrue on the same, be and remain a lien on said property till paid to the state.

Sec. 354. Whenever a decedent appoints one (1) or more executors or trustees, and in lieu of their allowance makes a devise or bequest of property to them which would otherwise be liable to said tax, or appoints them his residuary legatees and said bequests, devises or residuary legacies exceed what would be a reasonable compensation for their services, such excess shall be liable to such tax, and the court of probate having jurisdiction of their accounts shall fix such compensation.

Sec. 355. All taxes imposed by this act shall be payable to the treasurer of the state by the executors, administrators or trustees, one (1) year from the death of said testator or intestate; and if the same are not so paid, interest at the rate of nine (9) per centum shall be charged them and collected from the time said tax became due.

Sec. 356. Any administrator, executor, or trustee having in charge or trust any property subject to said tax shall deduct the tax therefrom, or shall collect the tax thereon from the legatee or person entitled to said property, and he shall not deliver any specific legacy or property subject to said tax to any person until he has collected the tax thereon.

Sec. 357. Whenever any legacies subject to said tax shall be charged upon or payable out of any real estate, the heir or devisee, before paying the same shall deduct said tax therefrom and pay it to the executor, administrator or trustee, and the same shall remain a charge upon said real estate until it is paid; and payment thereof shall be enforced by the executor, administrator or trustee, in the same manner as the payment of the legacy itself could be enforced.

Sec. 358. If any such legacy be given in money to any person for a limited period, such administrator, executor, or trustee, shall retain the tax on the whole amount: but if it be not in money, he shall make an application to the court having jurisdiction of his accounts to make an apportionment, if the case require it, of the sum to be paid into his hands by such legatee on account of said tax and for such further order as the case may require.

Sec. 359. All administrators, executors and trustees shall have power to sell so much of the estate of the deceased as will enable them to pay said tax in the same manner as they may be empowered to do for the payment of his debts.

Sec. 360. Whenever any of the real estate of a decedent shall so pass to another person as to become subject to said tax, the executor, administrator or trustee of the decedent shall inform the state treasurer thereof within six (6) months after he has assumed the duties of his trust, or if the fact is not known to him within that time, then within one (1) month from the time that it does become so known to him.

Sec. 361. Whenever, for any reason, the devisee, legatee or heir who has paid any such tax shall refund any portion of the property on which it was paid, or it shall be judicially determined that the whole or any part of such tax ought not to have been paid, said tax, or the due proportional part of it, shall be paid back to him by the executor, administrator or trustee, if the said tax has not been paid to the state treasurer, or by him if it has been so paid.

Sec. 362. The value of such property as may be subject to said tax shall be its actual value as found by the court of probate, but the state treasurer, or any person interested in the succession to said property, may apply to the court of probate having jurisdiction of the estate, or to the circuit court in case there is no administration, and on such application said court shall appoint three (3) disinterested persons who being first sworn, shall view and appraise such property at its actual market value for the purposes of said tax, and shall make return thereof to the court, which return may be accepted by said court and if accepted shall be binding. And the fees of the appraiser shall be such as are customary in the administration of estates. In the case of an annuity or life estate, the value thereof shall be determined by the tables of mortality employed by insurance actuaries and five (5) per centum compound interest.

Sec. 363. The court of probate having either principal or ancillary jurisdiction of the settlement of the estate of a decedent shall have jurisdiction to hear and determine all questions in relation to said tax that may arise affecting any devise, legacy or inheritance under this act subject to appeal as in other cases and the state treasurer shall represent the interests of the state in any such proceedings.

Sec. 364. No final settlement of the account of any executor, administrator, or trustee, shall be confirmed by any probate court unless it shall show, and the judge shall find, that all taxes imposed by the provisions of this act upon any property or interest therein belonging to the estate to be settled by said account shall have been paid, and the receipt of the treasurer of the state for such tax shall be the proper voucher for such payment.

Act May 23, 1901.



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